

CITY OF SARATOGA PLANNING COMMISSION
STUDY SESSION
AGENDA

DATE: April 11, 2012
PLACE: Senior Center –Multipurpose Room located at 19655 Allendale Ave, Saratoga, CA
TYPE: Adjourned Regular Meeting
TIME: 5:00 pm

ROLL CALL

REPORT OF POSTING AGENDA

1. **Application MOD11-0002;** 13915 Saratoga Creek Drive (386-21-039); Saratoga Woods Community Association - The applicant is requesting modifications of conditions of approval for an existing Conditional Use Permit allowing the use of a private recreational area by the Saratoga Woods Community Association; Staff Contact: Christopher A. Riordan (408)868-1235
2. **Meeting Protocols** – A presentation by staff on parliamentary procedures, best practices for public hearings, and meeting time limits. Staff Contact: James Lindsay (408) 868-1231
3. **PC Meeting Schedule** – Discussion of future study session dates and an earlier starting time for the April 25th meeting. Staff Contact: James Lindsay (408) 868-1231.

Adjournment To Regular Planning Commission Meeting

Wednesday, April 25, 2012 at 6:00 p.m. in the Council Chambers/Civic Theater
13777 Fruitvale Avenue, Saratoga, CA



PLANNING COMMISSION STUDY SESSION MEMORANDUM

Item 1

TO: Planning Commission
FROM: Christopher A. Riordan, AICP
MEETING DATE: April 11, 2012
SUBJECT: Saratoga Woods Community Association/13915 Saratoga Creek Drive/Conditional Use Permit Modification MOD11-0002

DISCUSSION:

On March 28, 2012 the Planning Commission (Commission) reviewed an application from the Saratoga Woods Community Association (Association) requesting modification of an existing Conditional Use Permit (V-73-1) granted in April 1958 for the Community Facility (pool & pool house) located at 12341 Saratoga Creek Drive.

Much of the discussion during the meeting was focused on the proposed hours of operation of the pool facility. The Commission took public testimony from both members of the Association and neighboring property owners. The Commission continued the public hearing to the April 25, 2012 meeting to provide an opportunity for the Association to present additional information and detail regarding the proposed hours of operation. The Commission also requested that staff schedule a Study Session for April 11, 2012 so the Commission could review the proposed changes to the hours of operation prior to the public hearing.

The Association has submitted information detailing the existing operations of the pool facility (Attachment #1). This includes information related to the general operation of the pool and clubhouse and the days and scheduled times of swim team activities, social events, and community uses.

Staff has also received written correspondence from the adjacent neighbor at 12371 Saratoga Creek Drive (Attachments #'s 2-3). Attachment #2 includes the neighbors' comments on the proposed uses of the pool facility as well as time tables for sunrise and sunset for the months of April – October, 2012 and a copy of the Noise Element from the City's General Plan. Attachment #3 was prepared by the neighbors' attorney and provides additional information regarding statements made during the March 28, 2012 public hearing by both the Association and the neighbor.

NEXT STEPS:

The application by the Saratoga Woods Community Association to modify their existing Conditional Use Permit has been scheduled for a Planning Commission Public Hearing on April 25, 2012.

ATTACHMENTS:

1. Detail of the Saratoga Woods Community Association Activities (prepared by Applicant)
2. Letter and additional information submitted by the adjacent neighbor.
3. Letter submitted by the attorney for the adjacent neighbor.

Saratoga Woods Community Association Activities



Saratoga Woods Board



Contents

- Summary of Pool and Clubhouse Use
- Club Event Detail
- Analysis of Closing Times
- Proposal



Swimming Pool

- Pool is open late Spring to early Fall
 - Open only Weekends
 - Before Memorial Day and in October
 - Open full time
 - From Memorial Day to end of September
- Pool closed almost 6 months each year
 - Outdoor activity very limited when pool closed



Clubhouse

- Administration
 - Board meetings and various committee mtgs
- Social
 - Winter parties and get-togethers
- Community center for neighborhood
 - Candidate Forums
 - Neighborhood watch (Sheriff presentation)
 - Homeowner's Association
 - "Mailbox issue" of a few years ago

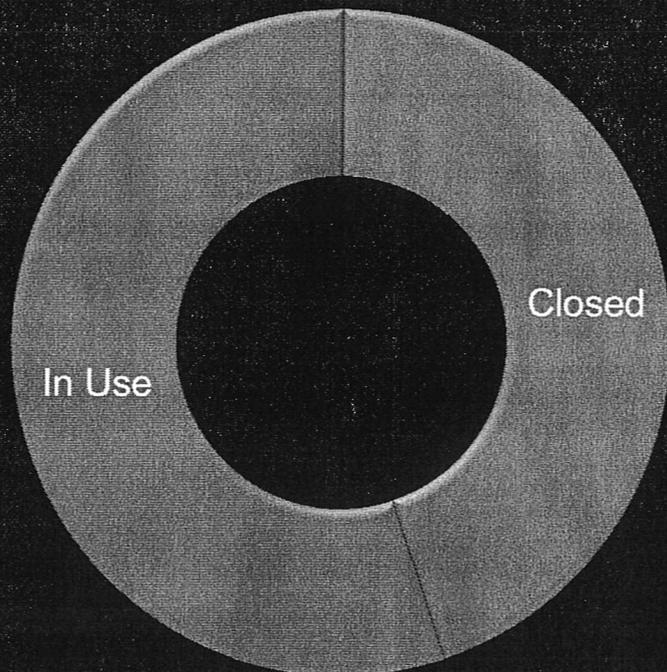


Club Use

55% Days In Use***

45% Days Not in Use

*** Defined as a day an event scheduled or pool is open.



SWCA Activities

Swim Team

Activities of the swim team and its operation

Administrative/ Maintenance

BOD meetings, facilities maintenance, lifeguard training, etc.

Large Social

Events in which more than 50 - 100 people typically participate

Social

Events with smaller attendance such as football nights or happy hours

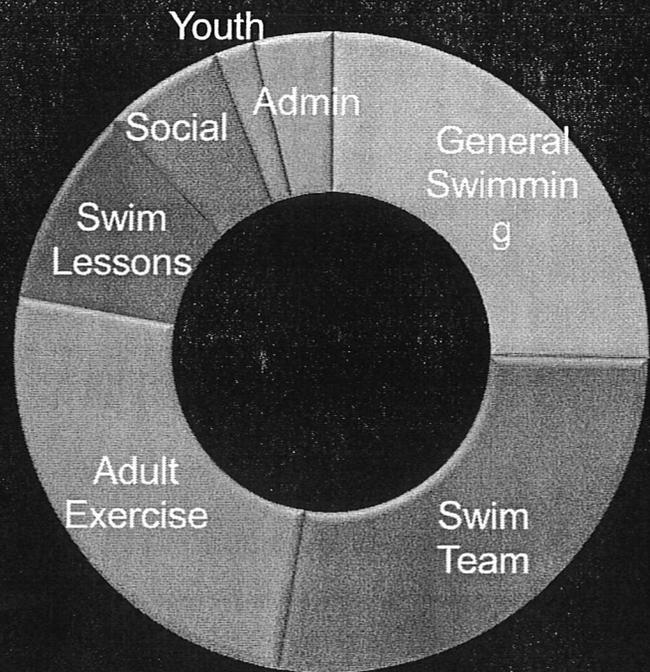
Community and Youth

Candidate presentations, neighborhood watch and HOA meetings; and Junior lifeguards, teen nights, etc



Activity Breakdown By Type

- Vast majority of activities center around swimming
- However the Social and Youth activities are critical for the community



Use Summary

- Club used only 55% of the year
 - Many of the 'uses' are purely administrative
- Only 2 Outdoor event extends past 10 PM
 - Adult Summer Party
 - Overnight Campout
- Many indoor events extends past 9 PM
 - Some are weekday events but finish by 10 PM
 - Days of these uses are not predictable



Event Detail Follows



Swim Team Activities

Inside

Season	DOW	Title	Start	End	Participants	Number
Summer	Varies	Coaches Meeting	6:00 PM	7:00 PM	10	3

Outside

Season	DOW	Title	Start	End	Participants	Number
Summer	Saturday	Swim Meet	7:00 AM	1:00 PM	200+	3
Summer	Sunday	Practice Meet	4:00 PM	7:00 PM	200	1
Summer	Weekdays	Teen Swim Practice	7:30 AM	9:00 AM	50	75
Summer	Weekdays	Youth Swim Practice	3:00 PM	6:30 PM	50	75
Summer	Friday	Swim team Potluck	6:00 PM	9:30 PM	75	1
Summer	Saturday	Swim Team Awards Dinner***	6:00 PM	9:30 PM	150	1

***Normally on Saturday, this year on Sunday



Administrative Activities

Indoor

Season	DOW	Title	Start	End	Participants	Number
All Year	Monday	Board Meetings	7:30 PM	10:00 PM	10-15	12
All Year	Varies	Other committee meetings	7:30 PM	10:00 PM	10-20	12
Summer	Weekday	Weekly Life Guard Staff Meeting	8:00 PM	9:30 PM	10-20	17
Winter	Weekend	LifeGuard Interviews				

Outdoor

Season	DOW	Title	Start	End	Participants	Number
Spring	Saturday	Spring Clean Up	9:00 AM	1:00 PM	20-40	1
Fall	Saturday	Fall Clean Up	9:00 AM	1:00 PM	20-40	1



Large Social Activities

Indoor

Season	DOW	Title	Start	End	Participants	Number
Winter	Saturday	Progressive Dinner Dessert	10:00 PM	11:30 PM	60	1
Winter	?	St. Patrick's Day	7:00 PM	12:00 AM	50	1
Winter	Saturday	Cinco de Mayo	7:00 PM	12:00 AM	50	1
Winter	Saturday	Adult Holiday Party	7:00 PM	12:00 AM	75	1

Outdoor

Season	DOW	Title	Start	End	Participants	Number
Summer	Holiday	Memorial Day BBQ	3:30 PM	9:30 PM	200	1
Summer	Holiday	4 th of July BBQ	3:30 PM	9:30 PM	200	1
Summer	Holiday	Labor Day BBQ	3:30 PM	9:30 PM	200	1
Summer	Saturday	Adult Summer Party	7:00 PM	12:00 AM	100-130	1



Social Activities

Indoor

Season	DOW	Title	Start	End	Participants	Number
Winter	Weekend	Scotch Tasting	7:00 PM	11:00 PM	45	1
Winter	Weekday	Football / Hockey nights	5:30 PM	10:00 PM	15-25	3 (approx)
Summer	Weekend	Ladies Night	7:00 PM	11:00 PM	20-50	1

Outdoor

Season	DOW	Title	Start	End	Participants	Number
Spring	Weekend	Spring Social	2:00 PM	5:00 PM	50-100	1
Summer	Weekend	Family Movie Night	8:00 PM	11:00 PM	20-50	1
Summer	Friday	Happy Hour	5:00 PM	9:30 PM	15-30	6



Community / Youth Use

Indoor

Date	Day	Title	Start	End	Participants	Number
Varies		HOA, Candidate Forums, etc.***	7:30 PM	10:00 PM	20-50	??
Winter	Weekend	Teen Nights	7:00 PM	10:30 PM	20-35	3
Winter	Weekday	Halloween Party	5:00 PM	6:30 PM	50-100	1

***Sheriff Neighborhood Watch, community interest meetings

Outdoor

Date	Day	Title	Start	End	Participants	Number
Summer	Varies	Teen Nights	6:30 PM	10:00 PM	20-40	2
Summer	Weekday	Jr. Lifeguards	6:30 PM	9:00 PM	30	12
Summer	Weekend	Jr. Lifeguard Baby Sitting Night***	7:00 PM	10:30 PM	35	2
Winter	Saturday	Easter Egg Hunt	11:00 AM	1:00 PM	20-50	1
Winter	Weekend	Children's Christmas Party	2:00 PM	5:00 PM	20-50	1

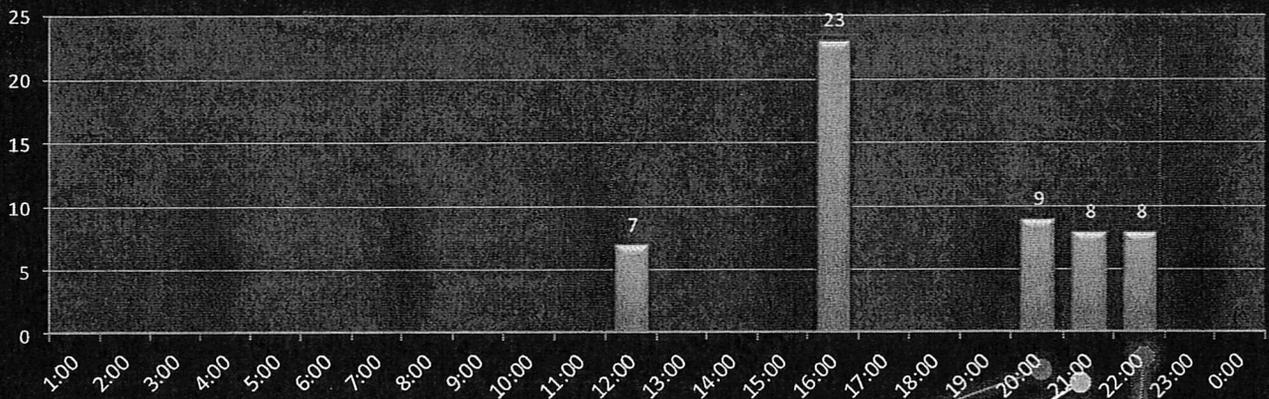
***Starts outside but goes inside around 9 PM



Closing Time Analysis



Closing: Summer Weekdays



8:00 PM
Jr. Lifeguards

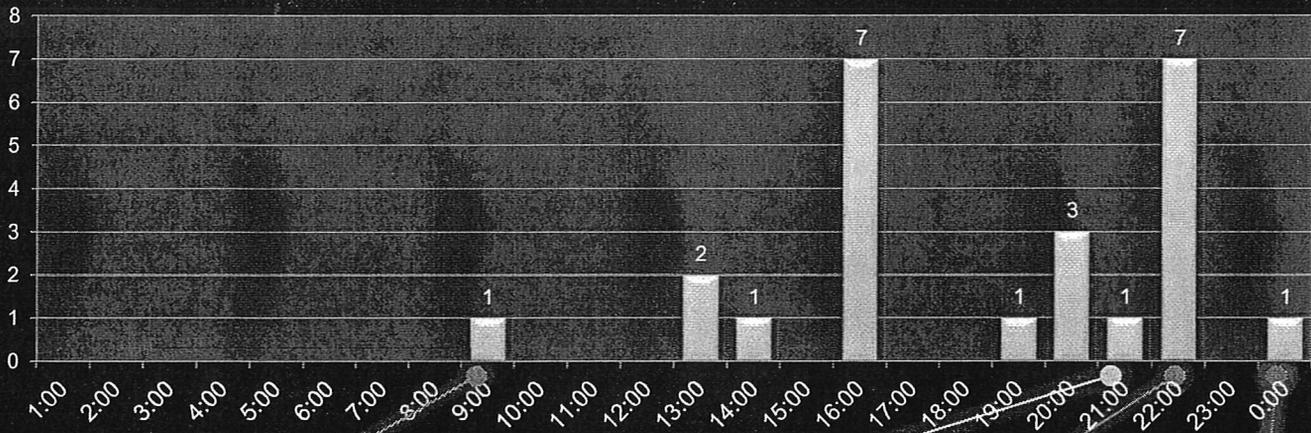
9:00 PM
Lifeguard Mtg
Buddy Blowout
Practice Meet & Pizza

9:30 PM
Memorial Day BBQ
July 4th BBQ
Labor Day BBQ
Swim Awards Dinner

10:00 PM
Jr. Guard Swim



Closing: Summer Weekends



9:00 AM Campout
(From previous night)

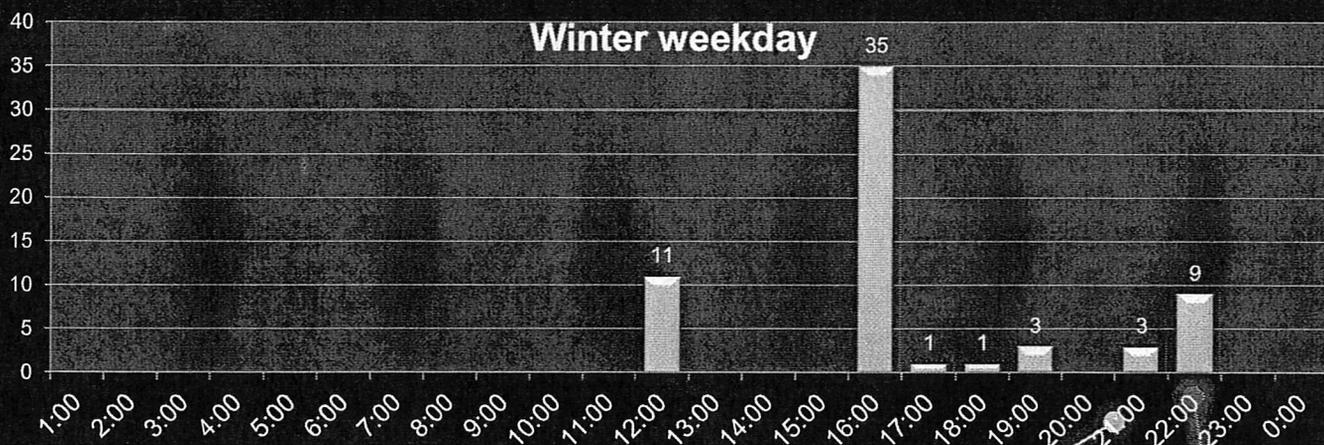
9:00 PM
Swim team potluck

9:30 PM
Friday Night Happy Hour

12:00 AM
Adult Summer Party



Closing: Winter Weekdays

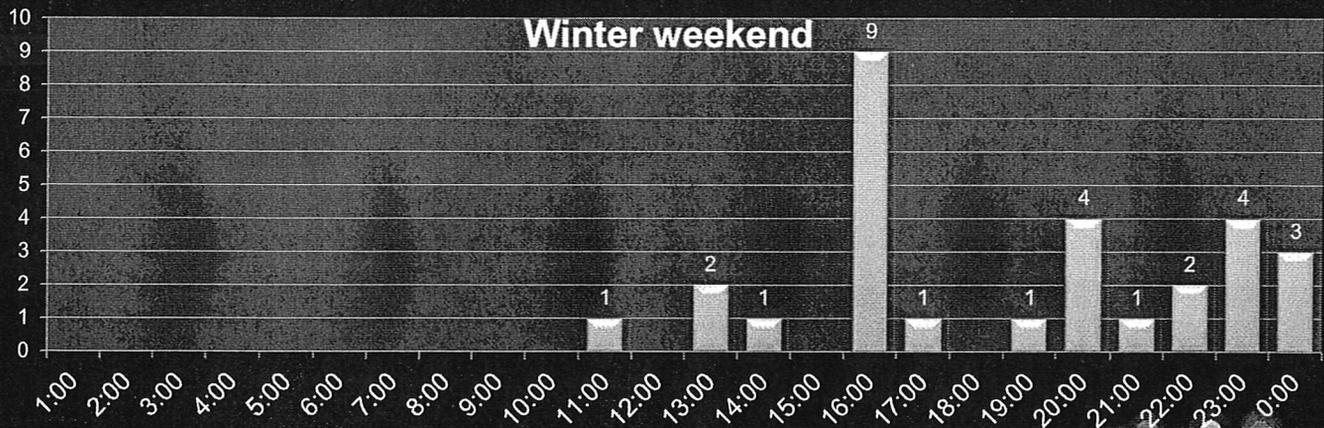


9:00 PM
Lifeguard Mtg
Memorial Day BBQ

10:00 PM
Board Meetings



Closing: Winter Weekends



10:00 PM
Big Game Party
Teen Night

11:30 PM
Progressive Dinner Dessert
11:00 PM
Ladies Night
Scotch Night
Teen Night

12:00 AM
St. Patrick's Day
Cinco De Mayo
Adult Holiday Party



Days Closing 9:00 PM or later

Description	Start	End	Participants Included	Date	Location
Swim Team Campout	7:00 PM	9:00:00 AM	100	1	16-Jun Outdoor
St. Patricks Day Party	7:00 PM	12:00:00 AM	50	1	17-Mar Indoor
Cinco de Mayo	7:00 PM	12:00:00 AM	50	1	5-May Indoor
Adult Summer Party	7:00 PM	12:00:00 AM	100-130	1	23-Jun Outdoor
Adult Holiday Party	7:00 PM	12:00:00 AM	75	1	7-Dec Indoor
Scotch Nite	6:45 PM	11:00:00 PM	45	1	3-Feb Indoor
Progressive Dinner Dessert	10:00 PM	11:30:00 PM	60	1	10-Mar Indoor
Ladies Night	7:00 PM	11:00:00 PM	20-50	1	15-Sep Indoor
Teen Night	7:00 PM	11:00:00 PM	20-50	1	28-Apr Outdoor/Indoor
Family Movie Night	7:30 PM	11:00:00 PM	80-100	1	Varies Outdoor
Jr. Guards Babysitting	7:00 PM	10:30:00 PM	35	1	Summer Outdoor/Indoor
Board Meeting	7:30 PM	10:00:00 PM	10-20	1	9-Jan Indoor
Board Meeting	7:30 PM	10:00:00 PM	10-20	1	13-Feb Indoor
Board Meeting	7:30 PM	10:00:00 PM	10-20	1	12-Mar Indoor
Board Meeting	7:30 PM	10:00:00 PM	10-20	1	9-Apr Indoor
Board Meeting	7:30 PM	10:00:00 PM	10-20	1	14-May Indoor
Board Meeting	7:30 PM	10:00:00 PM	10-20	1	11-Jun Indoor
Board Meeting	7:30 PM	10:00:00 PM	10-20	1	9-Jul Indoor
Board Meeting	7:30 PM	10:00:00 PM	10-20	1	13-Aug Indoor
Board Meeting	7:30 PM	10:00:00 PM	10-20	1	10-Sep Indoor
Board Meeting	7:30 PM	10:00:00 PM	10-20	1	8-Oct Indoor
Board Meeting	7:30 PM	10:00:00 PM	10-20	1	12-Nov Indoor
Board Meeting	7:30 PM	10:00:00 PM	10-20	1	10-Dec Indoor
Big Game Party	7:00 PM	10:00:00 PM	20-50	1	20-Oct Indoor
Jr. Guards Midnight Swim	6:30 PM	10:00:00 PM	20-50	1	11-Jul Indoor/Outdoor
Teen Night	7:00 PM	10:00:00 PM	20-50	1	17-Nov Indoor
Lifeguard Meeting	8:00 PM	9:30:00 PM	10-20	1	29-May Indoor/Outdoor
Lifeguard Meeting	8:00 PM	9:30:00 PM	10-20	1	12-Jun Indoor/Outdoor
Lifeguard Meeting	8:00 PM	9:30:00 PM	10-20	1	26-Jun Indoor/Outdoor
Lifeguard Meeting	8:00 PM	9:30:00 PM	10-20	1	10-Jul Indoor/Outdoor
Lifeguard Meeting	8:00 PM	9:30:00 PM	10-20	1	24-Jul Indoor/Outdoor
Lifeguard Meeting	8:00 PM	9:30:00 PM	10-20	1	7-Aug Indoor/Outdoor
Lifeguard Meeting	8:00 PM	9:30:00 PM	10-20	1	21-Aug Indoor/Outdoor
Lifeguard Meeting	8:00 PM	9:30:00 PM	10-20	1	4-Sep Indoor/Outdoor
Lifeguard Meeting	8:00 PM	9:30:00 PM	10-20	1	18-Sep Indoor/Outdoor
Memorial Day BBQ	3:30 PM	9:30:00 PM	100-200	1	28-May Outdoor
4th of July BBQ	3:30 PM	9:30:00 PM	100-200	1	4-Jul Outdoor
Labor Day BBQ	3:30 PM	9:30:00 PM	100-200	1	3-Sep Outdoor
Outdoor Team Awards Dinner	6:30 PM	9:30:00 PM	200	1	15-Jul Outdoor
Swim Team Potluck	7:00 PM	9:30:00 PM	100-200	1	8-Jun Outdoor
Buddy Blowout	6:00 PM	9:30:00 PM	50-100	1	12-Jul Outdoor
Tween Night	7:00 PM	9:30:00 PM	20-50	1	11-Feb Indoor
Happy Hour	5:00 PM	9:30:00 PM	15-30	12	Fridays Outdoors
Swim Team Practice Outdoor Meet and Pizza Feed	3:00 PM	9:00:00 PM	100-200	1	3-Jun Outdoor

Hours PC Suggested

Indoor

Year around

Sunday – Thursday	8:00 AM	10:00 PM
Friday – Saturday	8:00 AM	11:00 PM

Outdoor

Summer (April 1 – Oct. 15)

Sunday	8:00 AM	9:00 PM
Monday – Thursday	6:30 AM	9:00 PM
Friday	6:30 AM	10:00 PM
Saturday	8:00 AM	10:00 PM

Winter (Oct. 16 – March 31)

Sunday – Thursday	10:00 AM	9:00 PM
Friday – Saturday	8:00 AM	9:00 PM

Additional 30 minutes clean up time after close.



Hours We Request

Indoor

Year around

Sunday – Thursday	8:00 AM	10:00 PM
Friday – Saturday	8:00 AM	11:00 PM

Outdoor

Summer (April 1 – Oct. 15)

Sunday	8:00 AM	9:00 PM
Monday – Thursday	6:30 AM	9:00 PM
Friday	6:30 AM	10:00 PM
Saturday	8:00 AM	10:00 PM

Winter (Oct. 16 – March 31)

Sunday – Thursday	10:00 AM	9:00 PM
Friday – Saturday	8:00 AM	9:00 PM

Additional 30 minutes clean up time after close.
6 Special Events until 12:00 AM plus Campout.
Pool grounds need to open at 7 AM for Swim Meets.



Special Events

Indoor

Season	DOW	Title	Start	End	Participants	Number
Winter	Saturday	Progressive Dinner Dessert	10:00 PM	11:30 PM	60	1
Winter	?	St. Patrick's Day	7:00 PM	12:00 AM	50	1
Winter	Saturday	Cinco de Mayo	7:00 PM	12:00 AM	50	1
Winter	Saturday	Adult Holiday Party	7:00 PM	12:00 AM	75	1

Outdoor

Season	DOW	Title	Start	End	Participants	Number
Summer	Saturday	Adult Summer Party	7:00 PM	12:00 AM	100-130	1
Summer	Varies	Family Movie Night	7:30 PM	11:00 PM	80-100	1
Summer	Saturday	Swim Team Campout	7:00 PM	9:00 AM	100-150	1



Proposal

- After reviewing the uses our operating hours will fit into the hours suggested by the Planning Commission
- Provided that the club is allowed exceptions for 7 special events per year that could go to Midnight, which will be subject to prior notice to our neighbors



Saratoga Woods Says...



April 2, 2012

VIA EMAIL ONLY

James Lindsay
Community Development Director
City of Saratoga
jlindsay@saratoga.ca.us

Joyce Hlava
Planning Commissioner
City of Saratoga
jhlava@saratoga.ca.us

Douglas R. Robertson, Chair
Planning Commissioner
City of Saratoga
d Robertson@saratoga.ca.us

Yan Zhao
Planning Commissioner
City of Saratoga
yzhao@saratoga.ca.us

Mary-Lynne Bernald
Planning Commissioner
City of Saratoga
mlbernal@saratoga.ca.us

Tina K. Walla
Planning Commissioner
City of Saratoga
twalla@saratoga.ca.us

David Reis
Planning Commissioner
City of Saratoga
dreis@saratoga.ca.us

Planning Commission
City of Saratoga
planning@saratoga.ca.us

Pragati Grover
Planning Commissioner
City of Saratoga
pgrover@saratoga.ca.us

**Re: Saratoga Woods (SCWA)
SWCA Request for Use Permit Modification (V-73-1)**

Dear Ladies and Gentlemen:

Upon reflecting about the discussions on March 28, 2012 a few items have come to mind that I feel need to be clarified and address.

First, there were many sunset times mentioned during the public hearing. As sunset times vary greatly depending both on Longitude and Latitude it is important to refer to times associated with the location in question. Attached is a calendar of sunset times for Saratoga California from April thru October. From this you can see that on April 1, 2012 the sunset time is 7:30pm. The latest sunset time during the summer months is on June 28th and 29th with a time of 8:33pm. At the end of their proposed summer season, October 15th 2012, the sunset time is 6:32pm. The median sunset time in this period would be 7:30pm with an average time being earlier then 7:30pm. With this under the current use permit the latest time they can be open is 9:33pm (one hour after the peak 8:33pm sunset). Any closing time after 9:33pm would be an increased use and an increase in their hours of operation for everyday of the year. If a set time is to be selected in lieu of the sunset system then it would seem the set time should be less than the peak summertime day.

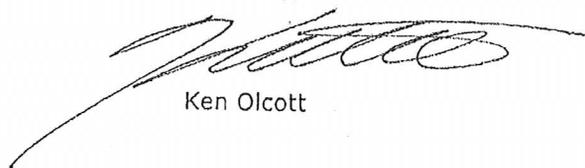
Second, it was implied if not said that this is not a new use application as it is just an adjustment so the permit conforms to the current alleged activities. Interestingly it seems

the Club is having a difficult time defining what these current uses are. Although it may make the Club feel better to address the situation in this manner, it is technically incorrect. Neither City staff nor the Planning Commission should consider it anything other than a new application for increased use. To do other than that would damage the new permit review process within the City and taint this and other applications. As such all appropriate analysis should be done and appropriate Impacts implemented for the proposed increased uses.

Third, it has been represented by the club that the activities they have today are the same activities they have had for 50 years. From the club's own statements On March 28th we heard that this is not true. This has been supported by the impacted neighbors across the creek who stated that the noise and activities have gotten worse over the years. In fact this year's scotch tasting party held in February was actually called the "6th Annual". This would mean it started in 2007. The 6th annual statement is documented in an email from Greg Dean to the City staff soon after the party.

Lastly, it seems appropriate that the Planning Commission use the tools developed by the City for consideration on these matters. In August 1988 the City commissioned a Final Report to the Noise Element for Saratoga California (Attached). Although the entire report helps one understand the goals within the City, in particular the highlighted sections of pages 1, 3, 14, 16, 17, 20, 21 and 22 seem to be an excellent guide for a decision maker in this situation.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Olcott", written in a cursive style.

Ken Olcott

April 2012

Saratoga, California, USA

Latitude, Longitude: 37 16.0' N, 122 00.0' W Time zone: -8:00 (Pacific) DST observance: North America

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1 Sunrise: 6:54am Sunset: 7:30pm	2 Sunrise: 6:52am Sunset: 7:31pm	3 Sunrise: 6:51am Sunset: 7:32pm	4 Sunrise: 6:49am Sunset: 7:33pm	5 Sunrise: 6:48am Sunset: 7:34pm	6  Sunrise: 6:46am Sunset: 7:35pm Full Moon: 12:20pm	7 Sunrise: 6:45am Sunset: 7:36pm
8 Sunrise: 6:43am Sunset: 7:36pm	9 Sunrise: 6:42am Sunset: 7:37pm	10 Sunrise: 6:40am Sunset: 7:38pm	11 Sunrise: 6:39am Sunset: 7:39pm	12 Sunrise: 6:38am Sunset: 7:40pm	13  Sunrise: 6:36am Sunset: 7:41pm Last Qtr: 3:51am	14 Sunrise: 6:35am Sunset: 7:42pm
15 Sunrise: 6:33am Sunset: 7:43pm	16 Sunrise: 6:32am Sunset: 7:44pm	17 Sunrise: 6:31am Sunset: 7:44pm	18 Sunrise: 6:29am Sunset: 7:45pm	19 Sunrise: 6:28am Sunset: 7:46pm	20 Sunrise: 6:27am Sunset: 7:47pm	21  Sunrise: 6:25am Sunset: 7:48pm New Moon: 12:20am
22 Sunrise: 6:24am Sunset: 7:49pm	23 Sunrise: 6:23am Sunset: 7:50pm	24 Sunrise: 6:22am Sunset: 7:51pm	25 Sunrise: 6:20am Sunset: 7:52pm	26 Sunrise: 6:19am Sunset: 7:53pm	27 Sunrise: 6:18am Sunset: 7:53pm	28 Sunrise: 6:17am Sunset: 7:54pm
29  Sunrise: 6:15am Sunset: 7:55pm First Qtr: 2:59am	30 Sunrise: 6:14am Sunset: 7:56pm					

Latitude and longitude are not for navigational purposes.

Daylight Saving/Summer Time is in effect for the entire month.
Courtesy of www.SunriseSunset.com
Copyright © 2012 Steve Edwards

May 2012

Saratoga, California, USA

Latitude, Longitude: 37 16.0' N, 122 00.0' W Time zone: -8:00 (Pacific) DST observance: North America

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1 Sunrise: 6:13am Sunset: 7:57pm	2 Sunrise: 6:12am Sunset: 7:58pm	3 Sunrise: 6:11am Sunset: 7:59pm	4 Sunrise: 6:10am Sunset: 8:00pm	5 Sunrise: 6:09am Sunset: 8:01pm Full Moon: 8:36pm
6 Sunrise: 6:08am Sunset: 8:02pm	7 Sunrise: 6:07am Sunset: 8:02pm	8 Sunrise: 6:06am Sunset: 8:03pm	9 Sunrise: 6:05am Sunset: 8:04pm	10 Sunrise: 6:04am Sunset: 8:05pm	11 Sunrise: 6:03am Sunset: 8:06pm	12 Sunrise: 6:02am Sunset: 8:07pm Last Qtr: 2:48pm
13 Sunrise: 6:01am Sunset: 8:08pm	14 Sunrise: 6:00am Sunset: 8:09pm	15 Sunrise: 5:59am Sunset: 8:09pm	16 Sunrise: 5:59am Sunset: 8:10pm	17 Sunrise: 5:58am Sunset: 8:11pm	18 Sunrise: 5:57am Sunset: 8:12pm	19 Sunrise: 5:56am Sunset: 8:13pm
20 Sunrise: 5:56am Sunset: 8:14pm New Moon: 4:48pm	21 Sunrise: 5:55am Sunset: 8:14pm	22 Sunrise: 5:54am Sunset: 8:15pm	23 Sunrise: 5:54am Sunset: 8:16pm	24 Sunrise: 5:53am Sunset: 8:17pm	25 Sunrise: 5:52am Sunset: 8:18pm	26 Sunrise: 5:52am Sunset: 8:18pm
27 Sunrise: 5:51am Sunset: 8:19pm	28 Sunrise: 5:51am Sunset: 8:20pm First Qtr: 1:17pm	29 Sunrise: 5:50am Sunset: 8:20pm	30 Sunrise: 5:50am Sunset: 8:21pm	31 Sunrise: 5:50am Sunset: 8:22pm		

Latitude and longitude are not for navigational purposes.

Daylight Saving/Summer Time is in effect for the entire month.
Courtesy of www.SunriseSunset.com
Copyright © 2012 Steve Edwards

June 2012

Saratoga, California, USA

Latitude, Longitude: 37 16.0' N, 122 00.0' W Time zone: -8:00 (Pacific) DST observance: North America

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1 Sunrise: 5:49am Sunset: 8:23pm	2 Sunrise: 5:49am Sunset: 8:23pm
3 Sunrise: 5:49am Sunset: 8:24pm	4 Sunrise: 5:48am Sunset: 8:24pm Full Moon: 4:13am	5 Sunrise: 5:48am Sunset: 8:25pm	6 Sunrise: 5:48am Sunset: 8:26pm	7 Sunrise: 5:48am Sunset: 8:26pm	8 Sunrise: 5:47am Sunset: 8:27pm	9 Sunrise: 5:47am Sunset: 8:27pm
10 Sunrise: 5:47am Sunset: 8:28pm	11 Sunrise: 5:47am Sunset: 8:28pm Last Qtr: 3:42am	12 Sunrise: 5:47am Sunset: 8:29pm	13 Sunrise: 5:47am Sunset: 8:29pm	14 Sunrise: 5:47am Sunset: 8:30pm	15 Sunrise: 5:47am Sunset: 8:30pm	16 Sunrise: 5:47am Sunset: 8:30pm
17 Sunrise: 5:47am Sunset: 8:31pm	18 Sunrise: 5:47am Sunset: 8:31pm	19 Sunrise: 5:48am Sunset: 8:31pm New Moon: 8:03am	20 Sunrise: 5:48am Sunset: 8:31pm	21 Sunrise: 5:48am Sunset: 8:32pm	22 Sunrise: 5:48am Sunset: 8:32pm	23 Sunrise: 5:48am Sunset: 8:32pm
24 Sunrise: 5:49am Sunset: 8:32pm	25 Sunrise: 5:49am Sunset: 8:32pm	26 Sunrise: 5:49am Sunset: 8:32pm First Qtr: 8:32pm	27 Sunrise: 5:50am Sunset: 8:32pm	28 Sunrise: 5:50am Sunset: 8:33pm	29 Sunrise: 5:50am Sunset: 8:33pm	30 Sunrise: 5:51am Sunset: 8:32pm

Latitude and longitude are not for navigational purposes.

Daylight Saving/Summer Time is in effect for the entire month.
Courtesy of www.SunriseSunset.com
Copyright © 2012 Steve Edwards

July 2012

Saratoga, California, USA

Latitude, Longitude: 37 16.0' N, 122 00.0' W Time zone: -8:00 (Pacific) DST observance: North America

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1 Sunrise: 5:51am Sunset: 8:32pm	2 Sunrise: 5:52am Sunset: 8:32pm	3 ○ Sunrise: 5:52am Sunset: 8:32pm Full Moon: 11:53am	4 Sunrise: 5:53am Sunset: 8:32pm	5 Sunrise: 5:53am Sunset: 8:32pm	6 Sunrise: 5:54am Sunset: 8:32pm	7 Sunrise: 5:54am Sunset: 8:31pm
8 Sunrise: 5:55am Sunset: 8:31pm	9 Sunrise: 5:56am Sunset: 8:31pm	10 ● Sunrise: 5:56am Sunset: 8:31pm Last Qtr: 6:49pm	11 Sunrise: 5:57am Sunset: 8:30pm	12 Sunrise: 5:58am Sunset: 8:30pm	13 Sunrise: 5:58am Sunset: 8:29pm	14 Sunrise: 5:59am Sunset: 8:29pm
15 Sunrise: 6:00am Sunset: 8:28pm	16 Sunrise: 6:00am Sunset: 8:28pm	17 Sunrise: 6:01am Sunset: 8:27pm	18 ● Sunrise: 6:02am Sunset: 8:27pm New Moon: 9:25pm	19 Sunrise: 6:02am Sunset: 8:26pm	20 Sunrise: 6:03am Sunset: 8:26pm	21 Sunrise: 6:04am Sunset: 8:25pm
22 Sunrise: 6:05am Sunset: 8:24pm	23 Sunrise: 6:05am Sunset: 8:24pm	24 Sunrise: 6:06am Sunset: 8:23pm	25 Sunrise: 6:07am Sunset: 8:22pm	26 ● Sunrise: 6:08am Sunset: 8:21pm First Qtr: 1:57am	27 Sunrise: 6:09am Sunset: 8:20pm	28 Sunrise: 6:09am Sunset: 8:20pm
29 Sunrise: 6:10am Sunset: 8:19pm	30 Sunrise: 6:11am Sunset: 8:18pm	31 Sunrise: 6:12am Sunset: 8:17pm				

Latitude and longitude are not for navigational purposes.

Daylight Saving/Summer Time is in effect for the entire month.
Courtesy of www.SunriseSunset.com
Copyright © 2012 Steve Edwards

August 2012

Saratoga, California, USA

Latitude, Longitude: 37 16.0' N, 122 00.0' W Time zone: -8:00 (Pacific) DST observance: North America

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1  Sunrise: 6:13am Sunset: 8:16pm Full Moon: 8:29pm	2 Sunrise: 6:14am Sunset: 8:15pm	3 Sunrise: 6:14am Sunset: 8:14pm	4 Sunrise: 6:15am Sunset: 8:13pm
5 Sunrise: 6:16am Sunset: 8:12pm	6 Sunrise: 6:17am Sunset: 8:11pm	7 Sunrise: 6:18am Sunset: 8:10pm	8 Sunrise: 6:19am Sunset: 8:09pm	9  Sunrise: 6:19am Sunset: 8:08pm Last Qtr: 11:56am	10 Sunrise: 6:20am Sunset: 8:07pm	11 Sunrise: 6:21am Sunset: 8:05pm
12 Sunrise: 6:22am Sunset: 8:04pm	13 Sunrise: 6:23am Sunset: 8:03pm	14 Sunrise: 6:24am Sunset: 8:02pm	15 Sunrise: 6:24am Sunset: 8:01pm	16 Sunrise: 6:25am Sunset: 7:59pm	17  Sunrise: 6:26am Sunset: 7:58pm New Moon: 8:56am	18 Sunrise: 6:27am Sunset: 7:57pm
19 Sunrise: 6:28am Sunset: 7:56pm	20 Sunrise: 6:29am Sunset: 7:54pm	21 Sunrise: 6:29am Sunset: 7:53pm	22 Sunrise: 6:30am Sunset: 7:52pm	23 Sunrise: 6:31am Sunset: 7:50pm	24  Sunrise: 6:32am Sunset: 7:49pm First Qtr: 6:55am	25 Sunrise: 6:33am Sunset: 7:47pm
26 Sunrise: 6:34am Sunset: 7:46pm	27 Sunrise: 6:34am Sunset: 7:45pm	28 Sunrise: 6:35am Sunset: 7:43pm	29 Sunrise: 6:36am Sunset: 7:42pm	30 Sunrise: 6:37am Sunset: 7:40pm	31  Sunrise: 6:38am Sunset: 7:39pm Full Moon: 6:59am	

Latitude and longitude are not for navigational purposes.

Daylight Saving/Summer Time is in effect for the entire month.
Courtesy of www.SunriseSunset.com
Copyright © 2012 Steve Edwards

September 2012

Saratoga, California, USA

Latitude, Longitude: 37 16.0' N, 122 00.0' W Time zone: -8:00 (Pacific) DST observance: North America

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1 Sunrise: 6:39am Sunset: 7:36pm
2 Sunrise: 6:39am Sunset: 7:36pm	3 Sunrise: 6:40am Sunset: 7:35pm	4 Sunrise: 6:41am Sunset: 7:33pm	5 Sunrise: 6:42am Sunset: 7:32pm	6 Sunrise: 6:43am Sunset: 7:30pm	7 Sunrise: 6:44am Sunset: 7:29pm	8 Sunrise: 6:44am Sunset: 7:27pm Last Qtr: 6:16am
9 Sunrise: 6:45am Sunset: 7:26pm	10 Sunrise: 6:46am Sunset: 7:24pm	11 Sunrise: 6:47am Sunset: 7:23pm	12 Sunrise: 6:48am Sunset: 7:21pm	13 Sunrise: 6:48am Sunset: 7:20pm	14 Sunrise: 6:49am Sunset: 7:18pm	15 Sunrise: 6:50am Sunset: 7:16pm New Moon: 7:12pm
16 Sunrise: 6:51am Sunset: 7:15pm	17 Sunrise: 6:52am Sunset: 7:13pm	18 Sunrise: 6:53am Sunset: 7:12pm	19 Sunrise: 6:53am Sunset: 7:10pm	20 Sunrise: 6:54am Sunset: 7:09pm	21 Sunrise: 6:55am Sunset: 7:07pm	22 Sunrise: 6:56am Sunset: 7:06pm First Qtr: 12:42pm
23 Sunrise: 6:57am Sunset: 7:04pm	24 Sunrise: 6:58am Sunset: 7:03pm	25 Sunrise: 6:58am Sunset: 7:01pm	26 Sunrise: 6:59am Sunset: 7:00pm	27 Sunrise: 7:00am Sunset: 6:58pm	28 Sunrise: 7:01am Sunset: 6:56pm	29 Sunrise: 7:02am Sunset: 6:55pm Full Moon: 8:20pm
30 Sunrise: 7:03am Sunset: 6:53pm						

Latitude and longitude are not for navigational purposes.

Daylight Saving/Summer Time is in effect for the entire month.
 Courtesy of www.SunriseSunset.com
 Copyright © 2012 Steve Edwards

October 2012

Saratoga, California, USA

Latitude, Longitude: 37 16.0' N, 122 00.0' W Time zone: -8:00 (Pacific) DST observance: North America

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1 Sunrise: 7:03am Sunset: 6:52pm	2 Sunrise: 7:04am Sunset: 6:50pm	3 Sunrise: 7:05am Sunset: 6:49pm	4 Sunrise: 7:06am Sunset: 6:47pm	5 Sunrise: 7:07am Sunset: 6:46pm	6 Sunrise: 7:08am Sunset: 6:45pm
7 Sunrise: 7:09am Sunset: 6:43pm	8 Sunrise: 7:10am Sunset: 6:42pm Last Qtr: 12:34am	9 Sunrise: 7:10am Sunset: 6:40pm	10 Sunrise: 7:11am Sunset: 6:39pm	11 Sunrise: 7:12am Sunset: 6:37pm	12 Sunrise: 7:13am Sunset: 6:36pm	13 Sunrise: 7:14am Sunset: 6:34pm
14 Sunrise: 7:15am Sunset: 6:33pm	15 Sunrise: 7:16am Sunset: 6:32pm New Moon: 5:04am	16 Sunrise: 7:17am Sunset: 6:30pm	17 Sunrise: 7:18am Sunset: 6:29pm	18 Sunrise: 7:19am Sunset: 6:28pm	19 Sunrise: 7:20am Sunset: 6:26pm	20 Sunrise: 7:21am Sunset: 6:25pm
21 Sunrise: 7:22am Sunset: 6:24pm First Qtr: 8:33pm	22 Sunrise: 7:23am Sunset: 6:22pm	23 Sunrise: 7:24am Sunset: 6:21pm	24 Sunrise: 7:25am Sunset: 6:20pm	25 Sunrise: 7:26am Sunset: 6:19pm	26 Sunrise: 7:27am Sunset: 6:17pm	27 Sunrise: 7:28am Sunset: 6:16pm
28 Sunrise: 7:29am Sunset: 6:15pm	29 Sunrise: 7:30am Sunset: 6:14pm Full Moon: 12:51pm	30 Sunrise: 7:31am Sunset: 6:13pm	31 Sunrise: 7:32am Sunset: 6:12pm			

Latitude and longitude are not for navigational purposes.

Daylight Saving/Summer Time is in effect for the entire month.
 Courtesy of www.SunriseSunset.com
 Copyright © 2012 Steve Edwards

FINAL REPORT

NOISE ELEMENT
CITY OF SARATOGA, CALIFORNIA

BACKGROUND REPORT AND
GOALS, POLICIES, AND IMPLEMENTATION MEASURES

PREPARED FOR:
CITY OF SARATOGA

FINAL REPORT

**NOISE ELEMENT
CITY OF SARATOGA, CALIFORNIA**

**BACKGROUND REPORT AND
GOALS, POLICIES, AND IMPLEMENTATION MEASURES**

**PREPARED FOR:
CITY OF SARATOGA**

**PREPARED BY:
COMMUNITY PLANNING CONSULTANTS**

AUGUST 17, 1988

Table of Contents

INTRODUCTION.....	1
DEFINITION AND DESCRIPTION OF NOISE ENVIRONMENT	1
- SOUND AND NOISE	1
- MEASUREMENT OF SOUND.....	2
- ACOUSTICAL STANDARDS.....	6
THE NOISE ENVIRONMENT IN SARATOGA.....	6
- IDENTIFICATION OF EXISTING NOISE SOURCES AND NOISE SENSITIVE AREAS	6
- PROJECTED NOISE CONTOURS FOR THE YEAR 2005.....	10
- MAP 3 COMMUNITY NOISE COMPLAINTS	13
- LAND USE PLANNING IMPLICATIONS	14
- NOISE REDUCTION TECHNIQUES.....	14
- EXISTING NOISE CONTROL AND ENFORCEMENT MEASURES.....	17
- EXISTING GOALS AND POLICIES IN OTHER GENERAL PLAN.....	19
ISSUE IDENTIFICATION AND PROPOSED GOALS, POLICIES AND IMPLEMENTATION MEASURES	21
APPENDICES	
- DEFINITIONS.....	24
- METHODOLOGY.....	25
- REFERENCE AND BIBLIOGRAPHY.....	29

INTRODUCTION

The Noise Element of the General Plan for the City of Saratoga has been prepared to meet the requirements of California Planning law Section 65302 (f), which requires a Noise Element as one of the seven mandatory components or elements. The Noise Element has been prepared in recognition of the guidelines adopted by the State Office of Noise Control pursuant to the Health and Safety Code. The Noise Element quantifies the community noise environment in terms of noise exposure contours for both the near and long-term levels of growth and traffic activity.

Purpose and Goal of Noise Element

The purpose of the Noise Element is to define and prescribe ambient noise levels for the various land uses in Saratoga in order that the quiet residential atmosphere of the City will be maintained. The Element identifies areas where noise exceeds acceptable levels, and evaluates existing and potential sources of noise so that noise may be effectively considered in the land use planning process. As a matter of policy, the City considers all residentially-zoned property in Saratoga to be "noise sensitive." In addition, specific land uses such as schools and convalescent homes, are identified as being noise sensitive. Accordingly, the Noise Element is intended to be used by the community in the goal of preserving the quiet residential environment of Saratoga by controlling noise to levels that are compatible with existing and future land uses, and by preventing

increases in noise levels where noise sensitive land uses are located.

DEFINITION AND DESCRIPTION OF NOISE ENVIRONMENT

Sound and Noise

Sound results from pressure alterations propagated in an elastic medium. In air, sound consists of changes in pressure that alternate above and below the atmospheric pressure. When vibrating objects accelerate the air next to them, alternate waves move through the air similar to waves in water. As the waves encounter an object, a force is exerted which causes the object to move. When the object is the human ear drum, forces are transmitted to the middle and inner ear sections where each vibration is ultimately carried to the brain and is interpreted as sound. Sounds have various characteristics including variations in intensity (loudness), frequency (pitch), incidence (constant vs. intermittent), and complexity (purity of pitch).

Noise is usually defined as unwanted sound. It is difficult to objectively describe noise since what is desirable sound to one person may be noise to another individual. The intensity, duration, time of occurrence and frequency components of the sound contribute to its identification as sound or noise. There are, however, many sounds which originate from transportation sources that are categorized as noise by most everyone. Generally, the determination of which sounds are noise vary by the individual's experience, learning, or activity state.

Strange sounds are considered as noise compared to more familiar sounds. Random sounds are usually more disturbing than predictable sounds. Sounds which occur during activities requiring quiet are perceived as being noisier than sounds of the same intensity occurring during a more active period. Research indicates that loud, high-pitched, intermittent sounds are more annoying and considered the "noisiest".

The Measurement of Sound

The measurement of sound involves two basic problems, a very wide range of pressures and the nonlinear manner in which the ear responds to sounds of varying intensity and frequency. It has been found that the human ear responds logarithmically to changes in loudness of an applied stimulus. Therefore, most sound measuring instruments are calibrated to read in terms of the common logarithm of the ration of sound pressure. The meter reading is called the sound pressure level and is express in decibels (dB).

Zero (0 dB) on the decibel scale is the lowest sound level that a healthy human ear can detect under very quiet conditions. As the sound level measuring scale is logarithmic (not in linear units like inches or pounds), a wide range of sound level changes can be expressed without using large, unwieldy numbers. For example, 10 decibels is 10 times more intense than 1 decibel, 20 decibels is 100 times greater than 1 decibel and 30 decibels is 1000 times greater than 1 decibel in sound

intensity. In relating decibels to human perception, it is necessary to use a particular type of decibel scale. This is known simply as the A-scale, which simulates the response by the human ear, a response more perceptive of mid-range frequencies. The A-scale is universally used for measuring sound levels because of its similarity to human perception. Typical "A" weighted sound levels for various sources measured at the distances shown are listed below:

NOISE SCALE

Source	Distance	Sound Level (dBA)
Soft whisper	5 ft	30
Quiet office	---	40
Light traffic	100 ft	50
Average speech	3-5 ft	60
Automobiles	50 ft	70
Inside bus	---	80
Leaf blower	25 ft	85
Inside subway train	---	90
Freight train	25 ft	100
Automatic punch press	3 ft	110
Pneumatic chipper	5 ft	120
Threshold of pain	---	130

The graph, shown below, further shows the relationship of how the level of noise varies with distance as well as the decibel level.

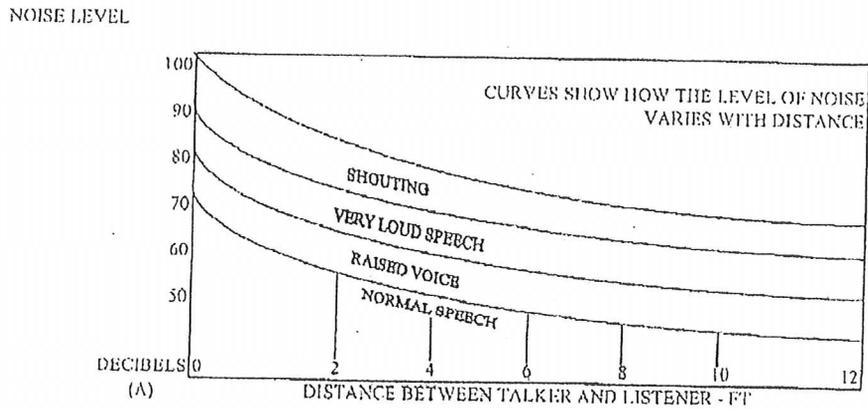


Figure 1 (See Page 5) expands on the above list by showing the relationship between various indoor and outdoor noises, their decibel level and their relative loudness.

In addition to its scientific definition, noise may also be defined as any sound that is annoying or which has a detrimental effect on a person's physiological and/or psychological processes. The degree of harm or annoyance produced by noise relates to the duration and intensity of sound. Increases of noises are often more annoying than a steady sound of greater intensity because one grows accustomed to a continuous sound. It is important to assess the impacts associated with noise for the following reasons:

1. Noises of sufficient intensity have caused irreversible hearing damage.
2. The effects of noise are cumulative, and, therefore, the levels and durations of noise

exposure must be taken into account in any overall evaluation. This realization has been translated into legislation and local regulatory ordinances.

3. Noise can produce physiological changes and often contributes to stress-related health disorders.
4. Noise can interfere with speech and other communication.
5. Noise can be a major source of annoyance by disturbing sleep, concentration, rest, and relaxation.
6. Noise interference with work is a significant direct and indirect cost to our industrial society.
7. People often do not complain about noise, despite its adverse impact on their health and general well-being.

*City of Saratoga Noise Element
Background Report/Goals, Policies and Implementation Measures*

*City of Saratoga Noise Element
Background Report/Goals, Policies and Implementation Measures*

FIGURE 1

**Sound Levels and Loudness of Illustrative Noises in Indoor and Outdoor Environments
(A-Scale Weighted Sound Levels)**

dB(A)	OVER-ALL LEVEL (Sound Pressure Level Approx. 0.0002 Microbar)	COMMUNITY (Outdoor)	HOME OR INDUSTRY (Indoor)	LOUDNESS (Human Judgment of Different Sound Levels)
130		Military Jet Aircraft Take-Off With After-Burner From Aircraft Carrier @ 50 Ft. (1130)	Oxygen Torch (121)	120dB(A) 32 Times as Loud
120	UNCOMFORTABLY LOUD	Turbo-Fan Aircraft @ Take-Off Power @ 200 Ft. (1118)	Riveting Machines (110) Rock-N-Roll Band (108-114)	110dB(A) 16 Times As Loud
110		Jet Flyover @ 1000 Ft. (1103) Boeing 707, DC-8 @ 6080 Ft. Before Landing (108) Bell J-2A Helicopter @ 100 Ft. (1100)		100dB(A) 8 Times As Loud
100	VERY LOUD	Power Mower (96) Boeing 737, DC-9 @ 6080 Ft. Before Landing (97) Motorcycle @ 25 Ft. (90)	Newspaper Press (97)	90dB(A) 4 Times As Loud
90		Car Wash @ 20 Ft. (89) Prop Plane Flyover @ 1000 Ft. (88) Diesel Truck, 40 MPH @ 50 Ft. (84) Diesel Train, 45 MPH @ 100 Ft. (83)	Food Blender (88) Milling Machine (88) Garbage Disposal (80)	80dB(A) 2 Times As Loud
80		High Urban Ambient Sound (80) Passenger Car, 65 MPH @ 25 Ft. (77) Freeway @ 50 Ft. from Pavement Edge, 10 AM (76 ± 6)	Living Room Music (76) TV-Audio, Vacuum Cleaner (70)	70 dB(A)
70	MODERATELY LOUD		Cash Register @ 10 Ft. (65-70) Elec. Typewriter @ 10 Ft. (64) Dishwasher (Rinse) @ 10 Ft. (60)	
60		Air Conditioning Unit @ 100 Ft. (60)	Conversation (60)	60dB(A) 1/2 As Loud
50	QUIET	Large Transformers @ 100 Ft. (50) Bird Calls (44) Lower Limit, Urban Ambient Sound (40)		50dB(A) 1/3 As Loud
40				40dB(A) 1/3 As Loud
10	JUST AUDIBLE	[dB(A) Scale Interrupted]		
0	THRESHOLD OF HEARING			

Source: Melville C. Branch, et al., *Outdoor Noise and the Metropolitan Environment*, (Los Angeles Department of City Planning, 1970), P. 2.

Figure 2

Acoustical Standards

The acoustical standards shown in Figure 2, which are a weighted 24-hour sound average (Ldn), are those recommended as being environmentally acceptable for the City of Saratoga and are achievable within the findings and recommendations of this Noise Element. These standards are consistent with those of other communities similar to Saratoga. However, because of Saratoga's physical setting and the desires of the community for a quality environment based on its land use and development, it is the long range goal of the City to achieve an outdoor daytime residential standard of 55 dBA.

For the Purposes of evaluating noise conditions at a specific time and place, single event noise levels should not rise more than 6 dBA above the local ambient noise level in single and multi-family residential neighborhoods; the acceptable outdoor daytime ambient noise level in residential areas is considered to be 60 dBA. In commercial areas, single event noise levels should not rise more than 8 dBA above the local ambient noise level; the acceptable outdoor daytime noise level in commercial areas is considered to be 65 dBA. A single event noise level of 75 dBA is the maximum which should be tolerated for construction projects authorized by permits measured at the property line.

ACOUSTICAL STANDARDS
(Recommended Average Daytime Ldn
Noise Levels)

The recommended maximum levels are based upon preventing noise interference with human activities and are well below levels which could damage hearing. The indoor standards apply to noise produced by outdoor noise sources. Residential outdoor levels should be 10 dBA lower in the evening than in the daytime.

LAND USE	STANDARDS	
	Daytime	Evening
Commercial/Office		
Outdoor	65 dBA	55 dBA
Indoor	50 dBA	40 dBA
Public/Park		
Outdoor	60 dBA	50 dBA
Indoor	50 dBA	40 dBA
Residential		
Outdoor	60 dBA	50 dBA
Indoor	45 dBA	35 dBA

THE NOISE ENVIRONMENT IN SARATOGA

Identification of Existing Noise Sources and Noise Sensitive Areas

Shown on Map 1 are the existing noise contours for highways and major arterials in Saratoga which indicate the noise exposure levels associated with these corridors. The 60 dBA contour locations indicate the acceptable point of noise exposure. This means that the ambient noise levels within these contours are within acceptable limits for

the residential environment. Noise levels beyond 65 dBA are in excess of acceptable levels for residential land use. Actual conditions on each property and within residences will vary significantly due to such factors as elevation, setback, lot size, noise barriers and screening, and building construction. Daily variations in noise level occur as to time of day, weather conditions and other factors.

The noise environment along Saratoga's major streets and other locations is discussed further below:

1. **Highway 9** - Highway 9, consisting of Saratoga-Los Gatos Road and Big Basin Way, is both a rural two-lane highway within its mountainous entrance into the City and a four-lane highway from the village leading to Los Gatos. The two segments have differing noise profiles due to topography, traffic volumes, and land use. Excessive traffic noise has been recorded which adversely affects residential areas such as Mendelsohn Lane particularly where located below the elevation of the roadway. The Big Basin Way segment has the 60 dBA contour located at 76 feet from the centerline of the roadway. Los Gatos-Saratoga Road has produced the highest noise measurements with the 60 dBA contour located 407 feet from the center line in the roadway.

2. **Highway 85** - Highway 85 is the current designation of Saratoga-Sunnyvale Road; it is the busiest thoroughfare in Saratoga and contains the highest concentration of commercial development. The 60 dBA contour is 298 feet from the centerline of the roadway.

The West Valley Corridor will be constructed as an extension of Highway 85 through Saratoga within the next 3-5 years. The design of this corridor was the subject of a Freeway Agreement between the City, Caltrans and Traffic Authority which was adopted by the Saratoga City Council on March 2, 1988. The agreement requires that Route 85 be developed in the following manner:

a. The freeway will have six travel lanes, two of which will be designed as commuter lanes for use only by transit buses and high occupancy vehicles during commuter hours.

b. The freeway will have a forty-six foot landscaped median which will provide for future mass transit.

c. The freeway will be depressed throughout the City except for an at-grade section between Saratoga Avenue and Saratoga Creek. This section will have extensive landscaping treatment to minimize impact on nearby properties.

d. Cox Avenue and Prospect Avenue will remain essentially at grade with the freeway being fully depressed under these two streets.

e. Saratoga Avenue will go under the freeway by use of under-pass so that no structures will be above grade in the area.

f. Quito Road will be elevated about ten feet above current grade so

that the freeway can pass under it depressed about twelve feet.

g. A pedestrian overcrossing will be provided between Blue Hills School and Kevin Moran Park.

h. Extensive soundwalls will be provided throughout the length of the freeway to reduce noise. Walls will be built as early as possible during the construction process.

i. Medium and heavy trucks will not be permitted on the freeway.

j. No interchanges will be built in Saratoga.

k. The entire section of the freeway from Interstate Route 280 to State Highway 17 will be open to traffic at the same time to prevent partial openings which could divert freeway traffic onto Saratoga surface streets.

l. Funding to complete the entire project is provided by the Traffic Authority Strategic Plan.

m. Construction hours will be limited to comply with local ordinances (7:30 a.m. to 6:00 p.m. in Saratoga).

The negotiated freeway design would mitigate traffic noise to acceptable noise levels (60 dBA) for residential and open space land use in Saratoga along the freeway corridor.

3. **Saratoga Avenue** – Saratoga Avenue is a major two to four-lane arterial leading into the City from the north. The land use along the street is

predominantly residential, and it provides access to churches and schools. Should the two-lane portion from Fruitvale Avenue into the village be improved in the future, noise mitigation measures would be required in view of residential land uses and the traffic volumes. The 60 dBA contour is at 172 feet from centerline.

4. **Fruitvale Avenue** – Fruitvale Avenue is a two and four-lane arterial providing access to the Civic Center, Redwood School, West Valley College and the 100F Home. The 60 dBA contour is at 176 feet from centerline.

5. **Allendale Avenue** – Allendale Avenue provides a connection between Fruitvale Avenue and Quito Road. The land use is predominately residential with the exception of West Valley College and two churches. This street is two-lanes in its easterly section. The 60 dBA contour is at 26-feet from centerline.

6. **Cox Avenue** – Cox Avenue is a two-lane arterial between Saratoga-Sunnyvale Road and Quito Road. Cox Avenue intersects with the Southern Pacific Railroad Line, the West Valley Corridor, and Saratoga Avenue. This residential street has its 60 dBA contour located at 87 feet from centerline.

7. **Quito Road** – Quito Road is an arterial street of varying improvement standards leading from Saratoga Avenue to Saratoga-Los Gatos Road. The land use is single family residential, in both suburban and rural in character. The heavier traffic portion of Quito Road shows the 60 dBA contour at 235 feet.

8. **Prospect Road** – Prospect Road serves as the City's northerly boundary; it is improved to four lanes and provides access to churches, shopping centers and schools, including Prospect High School. The 60 dBA contour is at 216 feet from centerline.

9. **Pierce Road** – Pierce Road is a designated arterial beginning at the Congress Springs Road portion of Highway 9 and terminating at Saratoga-Sunnyvale Road. Land use is low-density residential throughout its hilly location. Low traffic volumes and reduced speeds result in the 60 dBA contour at 36 feet from centerline.

10. **Railroads** – The southern Pacific Rail Lines consists of a spur line extending from San Jose, across Saratoga from Prospect Road in the north to Quito Road in the southeast, and terminating at the Kaiser Permanente Plant in Cupertino. One train each day is currently using the spur track. This train traverses the City on an irregular schedule ranging from 11 a.m to 4:00 – 5:00 p.m. Southern Pacific does not anticipate a significant increase in the number of trains using the spur, particularly since only a small portion of the train's present hauling capacity is being used. The 60 dBA contour is at 57.5 feet and the 65 dBA contour at 27 feet from the centerline.

11. **Airports** – Aircraft flight patterns over Saratoga are generated by Moffett Field and San Jose International Airport. Aircraft noise in Saratoga is a relatively small part of the City's noise environment. In recent years, aircraft on

submarine patrol and training aircraft operating from Moffett Field Naval Air Station have routinely flown over the City on daytime training and patrol flights. Over flights of large aircraft from San Jose International Airport are at altitudes which make their noise effect noticeable but not intrusive at ground level in quieter noise environments.

12. **Commercial Activities** – Commercial concentrations and community and neighborhood shopping centers are located on Saratoga Avenue and Saratoga-Sunnyvale Road at intersections with other arterial streets. There is also a small neighborhood Center on Quito Road. Episodic noise associated with the shopping centers and commercial activities are truck unloading, trash collection, landscape maintenance (leaf blowers) and refrigeration equipment. The village is a concentration of smaller business activities and is the historic commercial core. The main village thoroughfare, Big Basin Way, is within acceptable limits of noise exposure (60-65 dBA) due to lower traffic volumes and vehicle speeds. However, the intersection of the three major arterials in the village finds points of exposure in excess of 7 dBA.

13. **Paul Masson Site** – The Paul Masson Winery complex of twenty-five acres on Saratoga Avenue is presently inactive. Future land uses is likely to be a mixed development of residential and commercial uses under the Planned Development Ordinance. The potential mixed development is both a source of potential noise and a noise sensitive environment, especially considering the likelihood of a senior housing

development and other residential uses. Specific attention to noise concerns should be part of the environmental review and eventual design of any future use or development.

Projected Noise Contours for the Year 2005

Map 2 shows noise contours based on projected future traffic volumes of major City streets and the development of the West Valley Corridor. Due to minimal future residential growth within Saratoga and the immediate surrounding area and the assumed traffic control measures that would maintain or reduce future peak hour traffic volumes, noise levels are not predicted to measurably increase by the target year 2005 on a City-wide basis. Construction of the West Valley Corridor is projected to stabilize traffic volumes on the City's major streets. The noise contours predicted for the Route 85 Freeway are based on the adopted Freeway Agreement.

Citywide Noise Exposure Inventory

As can readily be seen from the maps showing noise level contours, the principal existing and future noise problems in Saratoga are largely associated with the arterial street systems. Approximately 1,180 dwellings city-wide are located within the 60+ dBA contours with more than half of those units exposed to noise levels in excess of 65 dBA. Based on a household average of 3.0 persons per dwelling unit, this would mean that approximately 3,012 residents of the city of Saratoga currently are exposed to

excessive noise levels in their residential environment due to the ground transportation system. This number is forecasted to be relatively constant to the year 2000 due to the predicted lower traffic volumes on the major streets and the limited potential for further residential development. An additional number of dwellings will be affected by the new freeway upon its construction.

In addition to transportation – related noise, commercial activities (including shopping centers), recreation complexes and other sites of outdoor public assembly such as churches and school sites have been identified as periodic sources of noise complaints.

All residentially – zoned property in Saratoga is considered to be noise sensitive. In addition, specific types of land uses such as public and private schools, parks, and open spaces, community facilities, retirement and convalescent homes and churches are considered to be noise sensitive. Listed in Figure 3 (Page 12) and shown on Map 3 are the facilities or sites that are included under this identification.

Public schools located near major sources of transportation noises are Blue Hills School, Redwood School, Hansen School, Saratoga High School, Prospect High School and West Valley College. Noise mitigation measures are generally provided by landscaping, open space (parking or recreation) and building setbacks. Private schools are generally located in association with church facilities and have employed similar mitigation measures. Parks within the City of Saratoga are generally located

*City of Saratoga Noise Element
Background Report/Goals, Policies and Implementation Measures*

away from major thoroughfares and have not been found to be impacted by specific noise sources. Exceptions are Kevin Moran Park and Congress Springs

Park which are adjacent to the future Highway 85 freeway extension.

FIGURE 3

NOISE SENSITIVE LOCATIONS

PUBLIC SCHOOLS

1. MARSHALL LANE SCHOOL
2. PROSPECT HIGH SCHOOL
3. BLUE HILLS SCHOOL
4. LAURA HANSEN SCHOOL
5. SARATOGA HIGH SCHOOL
6. EL QUITO PARK SCHOOL
7. REDWOOD JUNIOR HIGH SCHOOL
8. ARGONAUT SCHOOL
9. OAK STREET SCHOOL
10. FOOTHILL SCHOOL
11. WEST VALLEY COMMUNITY COLLEGE

PRIVATE SCHOOLS

1. SACRED HEART CATHOLIC SCHOOL
2. SAINT ANDREWS EPISCOPAL SCHOOL
3. NOTRE DAME NOVITIATE
4. PACIFIC ACADEMY
5. COUNTRY LANE MONTESSORI PRE-SCH
6. NOTRE DAME MONTESSORI PRE-SCHOO
7. UNIVERSITY PRE-SCHOOL OF SARATO

PARKS

1. AZULE PARK
2. BROOKGLEN PARK
3. CENTRAL PARK
4. CONGRESS SPRINGS PARK
5. EL QUITO PARK
6. FOOTHILL PARK
7. GARDINER PARK
8. HAKONE JAPANESE GARDEN
9. HISTORICAL PARK
10. KEVIN MORAN PARK
11. WILDWOOD PARK

CHURCHES

1. ASCENSION CHURCH
2. SACRED HEART CHURCH OF SARATOGA
3. FIRST CHURCH SARATOGA
4. CHURCH OF JESUS CHRIST LATTER D. SAINTS
5. SARATOGA FEDERATED CHURCH
6. SAINT ANDREW'S EPISCOPAL CHURCH
7. IMMANUEL LUTHERAN CHURCH
8. PRINCE OF PEACE LUTHERAN CHURCH
9. SERBIAN EASTERN ORTHODOX CHURCH
10. ST. NICHOLAS ORTHODOX CHURCH
11. SARATOGA PRESBYTERIAN CHURCH
12. WESTHOPE PRESBYTERIAN CHURCH SARATOGA
13. GRACE UNITED METHODIST CHURCH
14. CONGREGATION BETH DAVID

COMMUNITY FACILITIES

1. SARATOGA CITY HALL AND COMMUNITY CENTER
2. VILLA MONTALVO
3. ARBORETUM
4. MADRONIA CEMETERY
5. SARATOGA COMMUNITY LIBRARY

SENIOR HOUSING
RETIREMENT HOMES
CONVALESCENT HOSPITALS

1. SARATOGA COURT
2. FELLOWSHIP PLAZA
3. ODD FELLOWS INFIRMARY
4. OUR LADY OF FATIMA VILLA
5. SARATOGA PLACE

Community Noise Complaints

Listed below are specific noise complaints that have been received by the City of Saratoga in the past three years through the Community Service Officer's program. The number of complaints and percentage by category is included:

Barking dogs	45 (35%)
Juvenile parties	20 (16%)
Live band/loud music	19 (15%)
Construction noise	12 (9.5%)
Leaf blowers in residential zones	9 (7%)
Noise from commercial activities	7 (5.5%)
Other equipment noise in residential	6 (5%)
Noise from skateboard ramps	4 (3%)
Birds capable of raucous outcry	5 (4%)

Other general sources of noise that have been identified in environmental impact reports and the General Plan include:

- Traffic noise on major thoroughfares.
- Surplus school uses (business-institutions-recreation).
- Motorized off-road vehicles.
- Tunnel effect of sound barrier walls.

Noise problems and complaints currently are addressed and managed through City ordinances dealing with

nuisances or specifically by the noise control portion of the Municipal Code (Article 7-30, Health and Safety.) Like many other communities, Saratoga is experiencing a sensitivity by its residents toward power landscape maintenance equipment such as lawn mowers and leaf blowers. This equipment can reach excessive decibel levels which exceeds the permitted 70 dBA between the Hours of 8:00 a.m. and 8:00 p.m.

One of the problems associated with Saratoga's existing noise ordinance as it applies to power equipment is that its enforcement relies primarily on noise measurement. Power landscape equipment is usually in motion and normally is used for short periods of time. Often by the time the Community Service officer arrives at the scene, the noise has ceased or has moved to a different location. Many noise meter readings are required to obtain an accurate measurement of the sound. One solution to this problem is the adoption of additional regulations that are easier to enforce. These may include the following:

1. greater restriction on the allowable hours of operation;
2. require the use of newer, quieter equipment; and

3. restrict operations to only one piece of power equipment at a time.

This problem has been addressed by other communities through more restrictive hours and encouragement of the use of quieter equipment that meets the 70 dBA limitation. The City of Palo Alto has amended its noise control ordinance to allow leaf blowers to be used only between the hours of 9 a.m. and 5 p.m. Monday to Saturday and 10 a.m. to 4 p.m. on Sundays. In addition, the maximum sound level of leaf blowers must be reduced to 75 decibels by the year 1989; the present limit is 82 decibels. This issue was the subject of a recent election where it was proposed to lower the level further to the 70 decibel level which is not attainable by most gas-powered blowers. This proposal was defeated by the voters. Improved technology, lower operating levels, and restricted hours are requirements of several other communities such as Santa Cruz, Santa Barbara and Carmel. The small residential community of Belvedere has banned the use of leaf blowers entirely.

Land Use Planning Implications

Land use planning can provide an effective means of mitigating adverse noise impacts by separating noise-sensitive areas from noise sources. Expensive site-specific noise mitigation structures such as sound walls or structural soundproofing can then be avoided or minimized. In developed areas, however, there is not always sufficient land to allow adequate separation of population concentrations

from transportation systems, which are the major sources of noise. Site specific noise abatement measures must be taken in these instances.

Control of noise can be accomplished by controlling noise at the source, buffering the pathway of sound waves with barriers or increased distance, controlling the transmission of noise through structures, and by enclosing or protecting the receiver of noise.

Noise Reduction Techniques

Noise reduction techniques available to the City of Saratoga to achieve noise-compatible land uses fall into five categories:

- Zoning standards
- Other legal restrictions such as subdivision laws, building, and health codes
- Municipal ownership or control of land
- Financial incentives for compatible use
- Educational and advisor municipal services.

Zoning Standards

Zoning standards can be a strong local control on the type of allowable new development, but is limited in controlling existing noise problems related to land uses. The principal use of zoning standards as a noise compatibility control is the separating of incompatible uses. In addition, zoning standards can regulate specific details of development design or construction, such as limiting

building heights, and requiring buffer strips, noise barriers, and sound insulating construction. These techniques are most frequently appropriate in the design and construction of multiple family buildings located on major traffic arteries.

Physical noise reduction techniques that can be utilized fall into the four major categories shown below. These physical techniques vary widely in their noise reduction characteristics their costs, and in their applicability to specific locations and conditions.

- Acoustical site planning
- Acoustical architectural design
- Acoustical construction
- Noise barriers

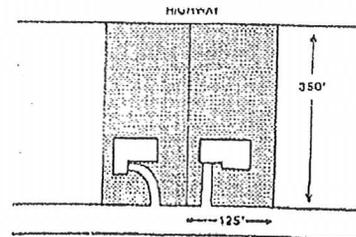
Acoustical Site Planning

Acoustical site planning uses the arrangement of buildings on a tract of land to minimize noise impacts by capitalizing on the site's natural shape and contours. Opportunities for successful acoustical site planning are determined by the size of the lot, the terrain, and the zoning restrictions. Acoustical site planning techniques include:

1. Placing as much distance as possible between the noise source and the noise sensitive activity.
2. Placing noise-compatible activities such as parking lots, open space, and commercial facilities, between the noise source and the sensitive activity.

3. Using buildings as barriers.

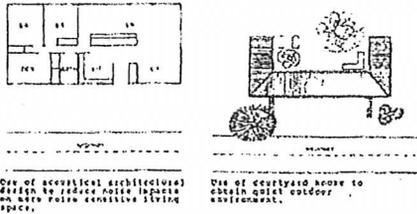
4. Orienting noise-sensitive buildings to face away from the noise sources.



Houses placed near the front of long narrow lots have deep rear yards available to act as noise buffers.

Acoustical Architectural Design

Acoustical architectural design incorporates noise-reducing concepts in the details of individual buildings. The areas of architectural concern include building height, room arrangement, window placement, and balcony and courtyard design. For example, in some cases, noise impacts can be reduced if the building is limited to one story and if bedrooms and living rooms are placed in the part of the building farthest from the noise source, while kitchens and bathrooms are placed closer to the noise source.



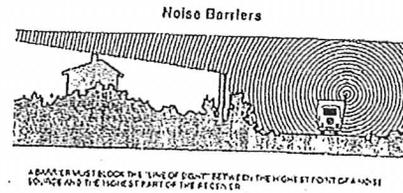
Acoustical Construction

Acoustical building construction is the treatment of the various parts of a building to reduce interior noise impacts. It includes the use of walls, windows, doors, ceilings and floors that have been treated to reduce sound transmission into a building. The use of dense materials and the use of air spaces within materials are the principle noise reduction techniques behind acoustical construction. Acoustical construction can be an expensive technique, especially when added to an existing building; however, it need not be prohibitively expensive in new construction. It is one of the most effective ways of reducing interior noise.

Noise Barriers

Noise barriers can be erected between noise sources and noise-sensitive areas. Barrier types include berms made of sloping mounds of earth, walls and fences constructed of a variety of materials, thick plantings of trees and shrubs, and combinations of these materials. The choice between these depends on a variety of factors, including the desired level of sound reduction, space, cost, safety and aesthetics. Solid wall barriers may reflect sound from one side of a highway

to the other, actually increasing sound levels by 3 dBA where walls are parallel. Earth berms deflect sound upward and tend to eliminate this condition; a combination of the two is usually recommended where possible for this reason.



Other Legal Controls

City ordinances other than zoning can act as noise compatible land use controls such as:

1. Subdivision or development standards can regulate details of larger developments to require acoustical site planning or to require berms and barriers. These standards often do not apply to new construction.
2. The Building Code can specify construction details such as acoustic insulation and sealed windows, or they can require that certain noise levels not be exceeded within a building.
3. State and federal standards specify noise levels which are not to be exceeded if a building is to be used for residential purposes. These standards have been the most consistently effective noise control where major noise sources have been identified.
4. An occupancy permit can be withheld unless all provision of zoning,

subdivision, building, and health codes have been met. This is an exceptionally effective enforcement mechanism.

5. Environmental impact reports can be required for new development projects. These contain a noise impact section which would require site-specific acoustical analysis. This information can act as a valuable aid for city officials who must make decisions on the appropriateness of permit applications.

Municipal Ownership

If the City or other government agency owns the noise-impacted land, it can keep the land vacant or ensure that it is developed only with noise compatible uses. Acquisition can be accomplished by several techniques, including purchase or taking by eminent domain. This can be both costly and locally unpopular. Land can be received as a gift, as a condition of subdivision approval, as a transfer from other government agencies, or in trade for other municipally owned land. Alternatively, the City can obtain, through purchase or otherwise, an easement which restricts the land without an actual transfer of ownership. This may often represent a low cost way to obtain strict land use control.

Educational and Advisory Municipal Services

Builders and developers often are unaware of noise compatibility measures which can be incorporated into a development at little cost. The City can, at very low cost, provide information to builders, developers, architectural firms,

and the public in general to generate the necessary awareness. These municipal services could include an acoustical information library or similar service as a reference source for local builders and developers. A public information effort can result in a public awareness of noise incompatibilities and their prevention.

Existing Noise Control and Enforcement Measures

The City of Saratoga, through its regulatory ordinances and code enforcement measures, contributes to the control of noise sources both directly through enforcement and indirectly through development standards and project review. Summarized below are the existing principal vehicles for noise control:

Zoning Ordinance

The Zoning Ordinance is the principal regulatory tool that controls land use by category, location, and intensity. Features related to noise are as follows:

1. Permitted land uses are prescribed by zoning district to ensure land use compatibility within and between districts.
2. Building setbacks provide for minimum distances from property lines and noise sources such as streets and highways.

The role of the zoning ordinance is described within the noise reduction techniques section of this report. Review of the zoning ordinance for

limiting the operation of trucks on city streets. Truck routes are also important in respect to road maintenance and need for repair.

No street or portion thereof in the City which has not been designated a "truck route" may be used by any commercial vehicle having a gross weight in excess of five tons. All streets not designated truck routes are considered to be restricted streets. "Use of a street" includes the stopping, standing or parking of a vehicle as well as driving, operating or moving of such vehicle thereon.

Designated Truck Routes within the City of Saratoga are:

- Prospect Road from Lawrence Expressway to Saratoga Avenue and the City limits.
- Saratoga Avenue from the intersection of State Highway 9 and State Highway 85 to the City limits.
- State Highway 9 from the City limits at Pierce Road to the City limits at Austin Way (9-40.030)
- State Highway 85, from Prospect Road to Saratoga Avenue.

Off-Street Vehicle Operation Ordinance (Article 9-45)

This ordinance regulates the operation of motor vehicles upon public and private property, except public streets and highways, by any person, whether or not he possesses a valid motor vehicle operator's license. This ordinance is difficult to enforce due to problems of terrain and access to private property. Specific provision are:

1. Permit required for all vehicles not specifically exempted. (9-45.020)

2. Certification of vehicles to ensure safety and that the use will not have an adverse impact upon the environment or upon the occupants of neighboring properties. Off-road vehicles must be equipped with an adequate muffler which is capable of maintaining a sound level not greater than 83 dBA under all conditions. (9-45.090)

Existing Goals and Policies in Other General Plan Elements

The following goals and policies relating to noise currently exist in other elements of the General Plan:

Land Use

LU.4.0 Encourage the economic viability of Saratoga's existing commercial areas and their accessibility by residents, keeping in mind the impact on the surrounding residential area.

LU.4.1 Non-residential and industrial uses shall be buffered from other uses by methods such as setbacks, landscaping, berms and sound walls.

LU.4.2 Non-residential development shall be confined to sites presently designated on the General Plan for non-residential use. Existing non-residential zoning shall not be expanded nor new non-residential zoning added.

LU.6.0 Relate new development and its land uses to presently planned

additional noise related controls is recommended as a part of the policies and implementation measures of this Element.

Fences, Walls, and Hedges Ordinance

This ordinance recognizes the need for noise protection along major streets. Fencing to mitigate noise from certain arterial streets (Prospect Road, Saratoga/Sunnyvale Road, Quito Road, Saratoga Avenue, Cox Avenue) can reach the maximum height of ten feet subject to the fence permit and meeting specified provision (15-29.030). Fencing adjacent to scenic highways is subject to controls of visual appearance including landscaping but with provisions for compensating for noise impacts (15-29.040).

Noise Control Ordinance (Article 7-30)

Specific provision of the current ordinance are:

1. Noise levels for residential zoning districts cannot exceed 6 dBA above the local ambient noise level. (7-30.030)
2. Noise levels for commercial and industrial zoning districts cannot exceed 8 dBA above the local ambient noise level (7-30.040) Exemptions to the above are that any noise source which does not produce a noise level exceeding 70 dBA at a distance of twenty-five feet under its most noisy condition of use shall be exempt from the provision of Sections 7-30.030 and 7-30.040 between the hours of 8:00 a.m. and 8:00 p.m.

3. Construction activities permitted only between the hours of 7:30 a.m. and 6:00 p.m. (7-30.060)

- a. No individual piece of equipment shall produce a noise level exceeding 83 dBA at a distance of twenty-five feet from the source thereof.

- b. The noise level at any point outside of the property plane of the project shall not exceed 86 dBA.

4. Amplified sound is subject to permit issued by Planning Director.
5. Excessive noise is unlawful when it disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivities residing in the area.

The Saratoga Noise Control Ordinance, adopted in 1972, is based on a model ordinance recommended by the State for municipalities and is similar to ordinances of other communities in respect to standards and regulations. A recommendation of this Element is to consider amending the existing noise ordinance with revised standards and regulations that address the specific noise problems of the City of Saratoga.

Truck Route Ordinance (Article 9 – 40)

The Truck Route Ordinance contributes to both the safety and the quiet environment of the community by

street capacities so as to avoid excessive noise, traffic, and public safety hazards. If it is determined that existing streets need to be improved to accommodate a project, such improvements shall be in place or bonded for prior to issuance of building permits.

LU6.2 Proposed land uses and development proposals shall be evaluated against ordinance standards to assure that the related traffic, noise, light, appearance, and intensity of use have limited adverse impact on the area.

Circulation

CI 10.0 Traffic impacts that could create excessive noise, safety hazards, and air pollution shall be mitigated. The City shall use the standards established by the State of California and in effect on February 14, 1983, to determine what constitutes excessive noise, safety hazards, and air pollution until the City adopts its own standards or more restrictive standards are adopted by the state.

Housing

The Saratoga General Plan recognizes the predominately residential nature of the community and the need for protection of the noise sensitive environment. The Housing Element recognizes housing needs and the appropriate future locations of housing consistent with other elements of the General Plan.

Open Space

OS.3.2 The City shall review proposed interim uses of surplus school sites to determine if the impacts generated by the proposed uses will have significant adverse effects, particularly in terms of noise, traffic, and parking on adjacent residential areas.

Issue Identification and Proposed Goals, Policies and Implementation Programs

Issue #1: Many residents of the City of Saratoga are exposed to undesired levels of noise from a variety of sources.

1.0 (Goal) To maintain or reduce noise levels in the City to assure a residential environment free from annoying and/or harmful noise. It shall be the long range objective to reduce the average daytime outdoor residential noise standard to 55 dBA.

1.1 (Policy) The City shall maintain an up-to-date-Noise Element.

1.1 (Imp) The City shall periodically measure and monitor noise levels at noise sensitive locations.

1.1a (Imp) The Noise Element shall be reviewed in 1994 to assess the impacts of the West Valley Freeway (Route 85)

1.2 (Policy) The City shall control specific sources of noise either through abatement or through enforcement of noise standards, and shall discourage activities, practices, or land uses that create excessive noise.

1.2 (Imp) The City should revise the Noise Ordinance to reflect appropriate noise levels and regulations for various types of power equipment, land use activities and enforcement methods.

1.3 (Policy) The City shall ensure that all serviced contract or performed by the City do not cause noise problems.

1.3 (Imp) The City shall require that all City-owned and operated equipment and equipment operated under contract with the City contain adequate noise attenuation equipment. New purchases of equipment should be made with quiet operations given a high priority as a selection criteria.

Issue #2: The community noise environment may be detrimentally affected by land use conflicts.

2.0 (Goal) To promote and preserve land uses which are compatible with each other and with a minimal noise environment.

2.1 (Policy) Changes in land uses and development should be reviewed for noise impacts to neighboring land uses.

2.2 (Policy) Parks and recreational areas should be protected from excessive noise to permit the enjoyment of sports and other leisure time activities.

2.2 (Imp) Parks and other recreational areas which are impacted by outside noise sources should be provided with noise protection devices, including barriers and landscaping. Park design

should locate passive recreation areas away from noise sources.

2.3 (Policy) New development deemed noise sensitive shall be appropriately sited and protected from adverse noise impacts.

2.3 (Imp) The City shall require all noise sensitive development adjacent to or within an area where the noise level exceeds 60 dBA Ldn to include an acoustical analysis and recommendations for reducing noise impacts to acceptable levels.

2.4 (Policy) New development that generates noise shall utilize appropriate measures to reduce noise impacts.

2.4 (Imp) The City shall require all noise-generating development to mitigate noise impacts to the adopted noise standards; acoustical analysis may be required.

Issue #3: Public awareness and education is a key ingredient in controlling unwanted noise and its effects on the quality of life in Saratoga.

3.0 (Goal) To encourage public awareness of noise hazards, and ensure public protection from harmful miscellaneous noise sources.

3.1 (Imp) Commercial interests, institutions, and residential associations should involve their employees and members in efforts to reduce noise in their activities. Property improvements that would restrict noise and quieter maintenance equipment should be encouraged.

3.1a (Imp) The City should develop and distribute an educational brochure to inform the public of the general hazards of every day noise, including the various sources inside and outside of the home, consumer advice regarding products, hearing protection techniques, etc.

Issue #4: Local and regional traffic is the major source of environmental noise within the community.

4.0 (Goal) To maintain or reduce existing noise levels generated by the ground transportation system.

4.1 (Policy) The City should participate in inter-jurisdictional efforts to minimize noise impacts associated with transportation improvements.

4.1 (Imp) The City shall continue to work with Caltrans and the Santa Clara County Traffic Authority for the inclusion of noise mitigation measures identified in transportation improvement projects.

4.2 (Policy) The City shall work with the California Department of Transportation to mitigate the effect of existing and future highway noise.

4.2 (Imp) Cooperate with and provide input to Caltrans to ensure that design plans for Highway '85 and 9 improvements incorporate noise abatement measures to reduce or maintain existing noise levels to standards acceptable to the City of Saratoga.

4.3 (Policy) The City shall consider the use of alternative transportation methods in order to reduce cumulative traffic levels and noise generation.

4.3 (Imp) Consider programs to develop mass transit, pedestrian, and bicycle facilities along rights-of-way through the use of private and/or public funds or efforts.

4.4 (Policy) The City should ensure that roads constructed or improved in the City of Saratoga be designed with careful consideration given to both long and short term noise impacts.

4.4 (Imp) The City shall consider the inclusion of noise abatement design measures in street and roadway improvement projects.

4.5 (Policy) Noise should be minimized in predominately residential areas by discouraging or prohibiting through traffic.

4.5 (Imp) Continue to describe truck routes and regulate times of operation throughout the City as necessary in order to direct truck traffic away from noise sensitive land uses.

4.6 (Policy) Traffic noise should be reduced by proper vehicle maintenance and obedience of speed limits.

4.6 (Imp) Continue to enforce regulations relating to speed and vehicle repair.

DEFINITIONS

Absorption: Absorption is a property of materials that reduces the amount of sound energy reflected. The sound introduction of an "absorbent" into surfaces will reduce sound pressure level by virtue of the fact that sound energy will not be totally reflected. It should be mentioned that this is an entirely different process from that of the transmission loss through a material. The effect of absorption merely reduces the resultant sound level produced by energy which has already entered the room.

Acoustics: (1) the science of sound, including the generation, transmission and effects of sound waves, both audible and inaudible. (2) The acoustics of an auditorium or of a room, the totality of those physical qualities (such as size, shape, amount of sound absorption, and amount of noise) which determine the audibility and perception of speech and music.

Ambient Noise (Background Noise): The total of all noise in a system or situation, independent of the presence of the desired (or undesired) signal.

Ambient Noise Level: The composite of noise from all sources near and far. In this context, the ambient noise level constitutes the normal or existing level of environmental noise at a given location.

Analysis: The analysis of a noise generally refers to the composition of the

noise into various frequency bands, such as octaves, third-octaves, etc.

Average Daily Traffic (ADT): The total volume during a given time period in whole days greater than one day and less than one year divided by the number of days in that time period, commonly abbreviated as ADT.

Background Noise: The total of all noise in a system or situation, independent of the presence of the desired signal. In acoustical measurements, strictly speaking, the term "background noise" means electrical noise in the measurement system. However, in popular usage the term background noise is also used with the same meaning as "residual noise."

CNEL – Community Noise Equivalent Level: A noise rating scheme defined in California Administrative Code based on a process of sound energy averaging and with weighting factors applied to daytime, evening and nighttime noise exposures.

Continuous Noise: On-going noise, the intensity of which remains at a measurable level (which may vary) without interruption over an indefinite period or a specified period of time.

Daytime: Between the hours of 7:00 a.m. and 7:00 p.m. **Evening:** Between the hours of 7:00 p.m. and 10:00 p.m. **Nighttime:** Between the hours of 10:00 p.m. and 7:00 a.m.

dB (Decibel): A unit of level or logarithmic representation of magnitude when the base of the logarithm is the

APPENDICES – NOISE ELEMENT

tenth root of ten and the quantities concerned are proportional to power, such as sound pressure squared. The logarithm to the base the tenth root of 10 is the same as ten times the logarithm to the base 10.

dBA (Decibel A Scale): Measure of decibel using the "A" scale or "A" weighted network of the sound level meter. The "A" scale is the sound measuring scale that most closely correlates with the loudness of sounds as perceived by the human ear.

Equal Noisiness Zones: Defined areas or regions of a community wherein the ambient noise levels are generally similar (within a range of 5 dB). Typically, all sites within any given noise source will be of comparable proximity to major noise sources.

Fluctuating Noise: Continuous noise whose level varies appreciably (more than ± 5 dB) with time.

Frequency: The time rate of repetition of a periodic phenomenon (In cycles per second or hertz). The frequency is the reciprocal of the period.

Impulsive Noise: Noise of short duration (typically, less than one second) especially of high intensity, abrupt onset and rapid decay and often rapidly changing spectral composition.

Intrusive Noise: That noise which intrudes over and above the existing ambient noise at a given location. The relative intrusiveness of a sound depends upon its amplitude, duration, frequency and time of occurrence, and tonal or

informational content as well as the prevailing ambient noise level.

Land Use Area: Reasonably homogenous and identifiable areas composed of similar general types of land uses such as residential, commercial or industrial districts.

L10, L50, and L90 Sound Level: The sound level which is exceeded 10%, 50%, or 90% of a specified period of time. For example, the L10 sound level for a daily period is that sound level which is exceeded for 10% of 24 hours, or for 2.4 hours. The L10 represents a reasonable estimate for the "intrusive" noise level, the L50 the "average" level and the L90 the "background" level.

Leq -Energy Equivalent Sound Level: Sound level based on the average of "A" weighted sound energy or sound pressure squared for a noise exposure over a specified period of time.

Ldn - Day-Night Average Sound Level: Sound level averaged on the basis of "A" weighted sound energy or sound pressure squared for a 24 hour noise exposure including a 10 dBA weighting penalty added to sound levels for the nighttime hours.

Level: In acoustics, the level of a quantity is the logarithm of the ratio of that quantity to a reference quantity of the same kind. The base of the logarithm, the reference quantity and the kind of level must be specified.

Loudness: The intensive attribute of an auditory sensation, in terms of which sounds may be ordered on a scale

extending from soft to loud. Note: Loudness depends primarily upon the sound pressure of the stimulus, but it also depends upon the frequency and wave form of the stimulus.

Noise: Any undesired sound. By extension, noise is any unwanted disturbance within a useful frequency band, such as undesired electric waves in a transmission channel or device.

Noise Exposure Contours: Lines drawn about a noise source indicating constant energy levels of noise exposure. CNEL and Ldn are the metrics utilized herein to describe community exposure to noise.

Noise Level: The level of noise. For airborne sound unless specified to the contrary, noise level is the weighted sound pressure level called sound level; the weighting must be indicated.

Pitch: That attribute of auditory sensation in terms of which sounds may be ordered on a scale extending from low to high. Pitch depends primarily upon the frequency of the sound stimulus, but it also depends upon the

sound pressure and wave form of the stimulus.

Sound Insulation: (1) the use of structures and materials designed to reduce the transmission of sound from one room or area to another, or from the exterior to the interior of a building. (2) The degree by which sound transmission is reduced by means of sound insulating structures and materials.

Sound Level Meter: An instrument comprised of a microphone, an amplifier, an output meter, and frequency-weighting networks, that is used for the measurement of noise and sound levels in a specified manner.

Transient Sounds: Sounds whose average properties do not remain constant in time. Examples are an aircraft flyover, a passing truck, a sonic boom.

METHODOLOGY

The Noise Element was prepared to accomplish two tasks. One was to comply with Section 65302 (f) of the Government Code which states that a Noise Element is a mandatory element of a General Plan. The other task is to establish a City-wide policy document that stipulates that the preservation of the City of Saratoga's "relatively quiet" acoustic environment is necessary and beneficial for the General health and welfare of all residents.

To accomplish both of these tasks the following methodology was utilized. During the writing of the Noise Element some parts of the methodology was emphasized more than others due to acoustical characteristics inherent to the City of Saratoga.

1. Preliminary identification of problem noise areas.
2. Collection of data on existing and proposed transportation sound sources.
3. Collection of data on general sound levels throughout the City.
4. Review of information from published sources regarding effects of sound on human activities, health, and well-being.
5. Survey of noise control regulations from other jurisdictions.
6. Preparation of standards that relate sound levels to types of land use and environmental factors.
7. Formulation of policy statements and implementation alternatives.
8. Citizen input and awareness.

REFERENCES AND BIBLIOGRAPHY

1. State of California, State Planning Law, Government Code Section 65302 (f) requesting cities to have noise elements as part of the General Plan.
2. United States Environmental Protection Agency, Quieting in the House.
3. Office of Noise Control, California Department of Health, Model Community Noise Control Ordinance, April 1977.
4. National Association of Home Builders, Acoustical Manual.
5. United States Environmental Protection Agency, Protective Noise Levels, Condensed Version of the EPA Levels Document.
6. Carmel By the Sea General Plan, 1984.
7. City of Monterey General Plan, 1982.
8. City of Palo Alto Comprehensive Plan, 1986
9. Guidelines for the Preparation and Content of Noise Elements of the General Plan (Noise Control Program, California Department of Health, in coordination with the California Governor's Office of Planning and Research, Sacramento, CA) February 1976, Revised 1987.
10. The Audible Landscape: A Manual for Highway Noise and Land Use, Prepared for U.S. Department of Transportation, Federal Highway Administration, Offices of Research and Development, November 1974.
11. State of California Department of Transportation, Final EIS Route 85 Transportation Corridor, 1987.
12. Santa Clara County Traffic Authority, Route-85 Corridor Study, prepared by Barton-Aschman Associates, Inc., May 1987.
13. City of Saratoga General Plan, Zoning Map and Environmental Impact Report, 1983.
14. City of Los Gatos, Noise Element to the General Plan, 1985.
15. Noise Element Technical Report, Monterey County, 1975.
16. City of San Carlos Noise Element by Edward L. Pack, Associates, 1975.

*City of Saratoga Noise Element
Background Report/Goals, Policies and Implementation Measures*

17. City of Scotts Valley General Plan, 1986.
18. City of San Jose, Horizon 2000 Plan, 1985.

ROSSI HAMERSLOUGH REISCHL CHUCK

April 3, 2012

VIA EMAIL ONLY

James Lindsay
Community Development Director
City of Saratoga
jlindsay@saratoga.ca.us

Joyce Hlava
Planning Commissioner
City of Saratoga
jhlava@saratoga.ca.us

Douglas R. Robertson, Chair
Planning Commissioner
City of Saratoga
drobertson@saratoga.ca.us

Yan Zhao
Planning Commissioner
City of Saratoga
yzhao@saratoga.ca.us

Mary-Lynne Bernald
Planning Commissioner
City of Saratoga
mlbernal@saratoga.ca.us

Tina K. Walla
Planning Commissioner
City of Saratoga
twalia@saratoga.ca.us

David Reis
Planning Commissioner
City of Saratoga
dreis@saratoga.ca.us

Planning Commission
City of Saratoga
planning@saratoga.ca.us

Pragati Grover
Planning Commissioner
City of Saratoga
pgrover@saratoga.ca.us

**Re: Olcott / Saratoga Woods (SCWA)
SWCA Request for Use Permit Modification (V-73-1)
Our File: R11283**

Dear Ladies and Gentlemen:

I'd like to thank you for your diligence on March 28th. The amazing effort that goes into these types of situations is unbelievable. The public and citizens of Saratoga owe all of you a sincere thank you and acknowledgement of your dedication to the cause.

I also appreciate that the staff will be working with the Saratoga Woods folks to come up with a criterion. As mentioned at the end of the meeting, I would like the commission to obtain a list of events from the Saratoga Woods. The list should include the following:

- (1) The name of the event;
- (2) The date of the event;
- (3) The starting and ending time;
- (4) The approximate number of attendees, including the number of children under the age of 18 and adults;
- (5) Whether music will be provided and, if so, what type (live band, amplified sound, etc.);

- (6) Any other type of entertainment being provided;
- (7) Is the event a club sponsored event or is it an occasion by renting the clubhouse out to a member;
- (8) The approximate number of cars anticipated to be driven to the event;
- (9) Whether alcohol will be served at the event;
- (10) Whether or not the event can be moved to a Friday or Saturday; and
- (11) Is the event 100% indoors, outdoors or both?

Obviously, some events, such as the Fourth of July, will fall on the Fourth of July. It will be on a Wednesday this year, but other events can often be moved to a weekend date.

I know you were all struggling with the special events, as we were, but the more we know about them, the better off we'll be.

The reason I am asking whether or not an event is 100% indoors is the issue articulated by one of the commissioners in that an inside event during the summer will likely spill into an outside event because of the lack of air conditioning and the probability that the windows will be open.

I think it would be appropriate to say that properly noticed and attended Board of Directors meetings, even if there are additional guests or speakers, should be exempt from being included as special events. No one wants to prevent them from having regular meetings.

I wanted to alert all of you to one situation that greatly concerns my client and me. There were many questions from the commissioners as to what my client knew and what due diligence he performed before he purchased the property. I think Mr. Olcott went far beyond the normal real estate buyer in his diligence, but there is a lingering taste in my mouth that some people may believe that in some way he is at fault and deserves what he is getting because of a lack of due diligence or otherwise. Others say he must have known what was going on and now years later he is making a complaint. Of course, Mr. Olcott, and others, explained the increased intensity of the evening events have been a troublesome issue.

That being said, it was pretty obvious to me that the swim club is really a social club, as well, which is something that I was unaware of until March 28th. Of course, that adds to the complexity and problems for the evening events. I have been made aware of an email from Chuck Page through his personal email to the Brookview Homeowner's Association. The email was sent on March 14, 2012 at 5:44 p.m. regarding Saratoga Woods Swim Club Association hours and use permit changes. In that email, Mr. Page stated "it was not until someone bought the house just on the other side of the fence and complained that the use permit was ever questioned. The people that moved in did not learn about the club, but had to know it was there because it was on the other side of the fence, and therefore, was in their real estate disclosures."

Perhaps this email was circulated among the staff. It does certainly question, however, the Olcott's due diligence when Mr. Page said, as articulated above, that the Olcott's "had to know it was there." Mr. Page goes on to say that everyone should learn more about the club "... and make your point based upon much more information than one

Planning Commission
City of Saratoga
April 3, 2012
Page 3 of 3

complainant's remarks." As we all now know, this involves much more than one person complaining.

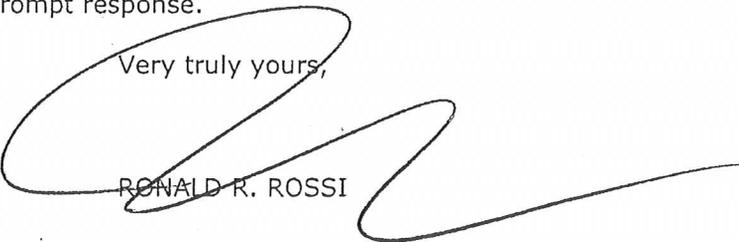
In this delicate case of balancing the equities among the homeowners that live immediately adjacent to the club, and the club's members, it is important to keep in mind that we're mainly talking about hours and noise levels. I think the critical issue is how late the club is going to be open and what will be occurring in the later hours during the week. My guess is, most of the events that will be articulated are on Friday or Saturday nights anyway, and would be easily encompassed before the 11:00 closing.

I'm not aware of any institution in Saratoga that allows a facility to remain open and operating immediately adjacent to single-family homes on weekends after 11 p.m., nor am I aware of any facility that is allowed to be open 17½ hours next to residences.

On another note, you referred to a communication from the City Attorney regarding the noise ordinance at the open part of the meeting. I would appreciate it if you would provide me with a copy.

We look forward to your prompt response.

Very truly yours,



RONALD R. ROSSI

RRR:jc
cc: Client
S:\CL\R\R11283\CORRESPONDENCE\PLANNING-LINDSEY 3-30-2012.DOCX



PLANNING COMMISSION STUDY SESSION MEMORANDUM

TO: Planning Commission
FROM: James Lindsay, Community Development Director
MEETING DATE: April 11, 2011
SUBJECT: Meeting Protocols

BACKGROUND:

At the December 2011 Study Session Retreat the Planning Commission requested staff prepare a number of training sessions throughout the year to include topics such as parliamentary procedures, foundational decision making / findings, and the California Environmental Act. This item is the beginning of the training series and will provide a primer on parliamentary procedures, public hearings, and meeting time limits.

DISCUSSION:

Parliamentary Procedures

The City's parliamentary procedures are based on "*Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century.*" The procedures in *Rosenberg's* have been modified slightly to reflect custom, practice, and specific code requirements in Saratoga. These procedures are included on pages 16 – 22 (Attachment A) of the City of Saratoga Commission Handbook. A hardcopy of the Handbook is provided to each City Commissioner with a PDF also available on the City's website:

www.saratoga.ca.us/civica/filebank/blobdload.asp?BlobID=3611. Staff will provide an overview of these procedures at the Study Session.

Public Hearings

The Article 2-15 & 10 of the City Code (Attachment B) and the Commission Handbook provide guidance on the conduct of public hearings. Not all agenda items require a public hearing but members of the public have the right to express their views on any item on the agenda even if there is no formal public hearing. Public hearing items are typically projects that require quasi-judicial decisions. A quasi-judicial decision occurs when the Commission applies land use regulations to a specific application just as a court applies the law to a set of facts presented to it. Therefore, procedural due process requirements apply to these types of decisions. Attachment C is an excerpt from the Institute for Local Governments' Planning Commission Handbook that discusses best practices for hearings and meeting procedures. Staff will provide an overview of suggested best practices for public hearings at the Study Session.

Meeting Time Limits

The Commission may wish to consider re-establishing limits for how late meetings should go or how late an item can be taken up for discussion. Actions on agenda items late at night or early the next morning may lack adequate public participation. An example of how a limit could work is establishing 11:00 PM as a required break to vote on which agenda items will be introduced past 11:00 PM and which items will be continued.

RECOMMENDATION:

Receive the staff presentation and provide direction on meeting time limits.

ATTACHMENTS:

1. Pages 13-22 of the Saratoga Commission Handbook
2. Article 12-15 and excerpts from Article 12-10 of the City Code
3. Section 2 of the Institute for Local Government's Planning Commission Handbook

Additional Materials may be presented at the study session

Meetings and Procedures

City of Saratoga Commission Handbook



TYPES OF MEETINGS

Regular Meetings — Each Commission holds regularly scheduled meetings on days, times, and at places established by City Council resolution. All meetings are open to the public. Each regular meeting is noticed by posting an agenda that includes a general description of each item to be discussed. The agenda must be posted at least 72 hours before a regular meeting.

Special Meetings — A Commission may call a special meeting by providing notice 24 hours in advance of the meeting and informing media outlets which have requested notices of such meetings. The notice states the time, place, and business to be transacted at the meeting. No other business may be considered at the special meeting. Notice is required even if no action is taken. At every special meeting the Commission must provide the public with an opportunity to address the Commission on any item described in the notice before or during consideration of that item. The special meeting notice describes this right to comment.

Adjourned Meetings — Regular and special meetings may be adjourned to a future date. If the subsequent meeting is conducted within five days of the original meeting, matters properly placed on the agenda for the original meeting may be considered at the subsequent meeting. If the subsequent meeting is more than five days from the original meeting, a new agenda must be prepared and posted. When a meeting is adjourned to a subsequent date, notice of the adjournment must be conspicuously posted within 24 hours on or near the door of the place where the meeting was held.

MEETING PROCEDURES

Agenda — Commission meetings are governed by an agenda. The agenda for the meetings are prepared by the Chair and the staff person supporting the Commission. A Commissioner may request an item be placed on a future agenda by speaking to the Chair, the staff member assigned to the Commission, or by agreement of the Commission at a properly noticed meeting. Agendas are distributed to the Commissioners and posted at least 72 hours prior to the meeting.

Commission members may only discuss or take action on items that are listed on that meeting's agenda. If a topic is raised during the public comment period or during the meeting which is not on the agenda, a Commissioner may make only a brief response and may request that the item be placed on the agenda for a future meeting.

Informational Packets — Informational packets typically contain the agenda for the upcoming meeting, supplemental materials describing the agenda items, and any communications to be presented at the meeting. This packet will be delivered to the members of the Commission and interested members of the public at least 72 hours prior to each meeting. Commissioners should review these packets prior to each meeting and contact staff with questions.

Quorum — A majority of the members of the Commission constitutes a quorum for the conduct of business. When less than a quorum appears at a noticed meeting, the Commission must adjourn to a future date. If no members of the Commission appear at a noticed meeting, the City staff member may adjourn the meeting to a future date and provide notice to members of the Commission and to the media in accordance with the special meeting notice provisions.

Minutes — Minutes of all Commission meetings are prepared by City staff. Minutes are presented at a subsequent Commission meeting for approval by the Commissioners. Written minutes approved by the Commission constitute the official record of its actions. Additions and corrections to the minutes may be made only in public meetings, with the approval of a majority of the Commissioners, and not by the private request of individual members.

Public Hearings — State Law requires that certain items of business be advertised for a formal Public Hearing before being considered by a public body. Additionally, a Public Hearing may be called by the City to maximize public input on a topic even if not legally required. The City Council and Planning Commission are the City bodies typically involved with Public Hearings.

Public Hearings must be conducted in a fair and impartial manner, and the public must be given an opportunity to be heard. The Chair or Mayor may limit or extend the time each member of the public may testify; however, the time limitations must apply to all speakers, regardless of the position they represent.

The general format for a Public Hearing is as follows:

1. Staff provides an overview of the proposal and responds to any questions raised by the Commission
2. Commissioners ask questions of staff and note any relevant facts not included in the staff report or other written materials provided to the Commission
3. The Chair opens the Public Hearing
4. If the matter involves an applicant or appellant (or both), the applicant/appellant is allowed ten minutes in which to present an opening statement
5. Members of the public are each allowed three minutes in which to express their opinions
6. The applicant/appellant is allowed five minutes to present a closing statement
7. The Chair closes the Public Hearing
8. Commissioners ask questions regarding matters raised during the course of the Public Hearing or in written materials presented to the Commission
9. Members deliberate on the item
10. Members take action on the item

Public Input — Members of the public have the right to express their views on any item included on a Commission agenda, even if there is no formal public hearing. In addition, members of the public may express their views on any item that is not listed on the agenda under the “Oral Communications” portion of the meeting agenda. A time limitation for each speaker, typically three minutes, may be imposed.

While Commissioners or staff are permitted to respond to any questions or to seek clarification concerning a point raised, it is imperative to note that the Brown Act specifically prohibits any public body from discussing or taking action on an item that is not listed on the agenda. Therefore, if the Commission wishes to discuss the item, the topic should be agendaized for a future meeting.

Effective Meetings — Commission meetings are the time and place for discussion, deliberation, decision, and action. Each Commissioner has an obligation to prepare, discuss, evaluate, review, and select the best possible alternatives. The following guidelines lead to constructive meetings:

- Review the meeting agenda and informational packet prior to each meeting
- Prepare to handle sensitive matters in a positive way
- Stick to the agenda

- Define issues and tasks clearly
- Observe the rules of order
- Encourage participation
- Discourage disruption
- Try to resolve differences
- Summarize progress from time to time
- Put items on the agenda and assign tasks to Commission members (if necessary) for the next meeting

Role of the Chair — Each Commission elects a Chair to serve a twelve-month term. No person may serve as Chair of the same Commission for more than one full term in any four-year period. The Chair acts as the presiding officer at all meetings. In the absence of the Chair, the Vice Chair presides for that meeting. In the absence of both, the members elect a temporary presiding officer for that meeting until the Chair arrives. The following is a list of the Chair's responsibilities:

- Call Meeting to order
- Call for the vote, restate all motions submitted for vote, and announces decision
- Decide questions of order (pursuant to the City of Saratoga's Rules of Parliamentary Procedure)
- Declare opening and closing of public hearings
- Lead meeting and preserve order
- Execute documents that have been approved by the Commission
- Represent the Commission at meetings when authorized by a majority of the Commission
- Work with staff assigned to the Commission to create meeting agendas

The Chair and staff should be in contact prior to each regularly scheduled meeting in order to review and discuss the agenda. In the event that a personality conflict arises between individual Commissioners, it is the Chair's responsibility to try to mediate and resolve the problem. If the conflict cannot be resolved, the Chair should approach the Director of the City Department staffing the Commission to discuss possible strategies to address the issue.

City of Saratoga Rules of Parliamentary Procedure



City of Saratoga Commission Handbook

These rules of parliamentary procedure are based on *Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century* written by Dave Rosenberg and published by the League of California Cities in 2003. The procedures set forth in *Rosenberg's* have been modified slightly to reflect custom, practice, and specific code requirements in Saratoga. While these rules have been drafted to conform to requirements of State law and the Saratoga City Code, in the event of a conflict between these procedures and those laws, the laws shall govern.

Saratoga's rules of parliamentary procedure are supported by the following four principles:

1. **Rules should establish order.** The first purpose of the rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear. Simple rules lead to wider understanding and participation.** Complex rules create two classes: those who understand and participate and those who do not fully understand and do not fully participate.
3. **Rules should be user-friendly.** That is, the rules must be simple enough that citizens feel they have been able to participate in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of the rules of procedure is to encourage discussion and to facilitate decision-making by the body. In a democracy, the majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself (but not dominate) and fully participate in the process.

THE CHAIRPERSON SHOULD TAKE A BACK SEAT DURING DISCUSSIONS

While all members of the governing body should know and understand the rules of parliamentary procedure, it is the chairperson (chair) who is charged with applying the rules of conduct. The chair should be well versed in those rules, because the chair, for all intents and purposes, makes the final ruling on the rules. In fact, all decisions by the chair are final unless overruled by the governing body itself.

Because the chair conducts the meeting, it is common courtesy for the chair to take a less active role than other members of the body in debates and discussions. This does *not* mean that the chair should not participate in the debate or discussion. On the contrary, as a member of the body, the chair has full rights to participate in debates, discussions and decision-making. The chair should, however, strive to be the last to speak at the discussion and debate stage, and should not make or second a motion unless he or she is convinced that no other member of the body will do so.

THE BASIC FORMAT FOR AN AGENDA ITEM DISCUSSION

All City Council and Commission meetings have a written, published agenda. The meeting is governed by the agenda and the agenda constitutes the agreed-upon road map for the meeting. Each agenda item should be handled by the chair in the following basic format.

First, the chair should clearly announce the agenda item number and should clearly state what the subject is. The chair should then announce the format that will be followed. If any member of the

body has a conflict of interest, that member announces the conflict and need for recusal and leaves the dais at this time.

Second, following that agenda format, the chair should invite the appropriate people to report on the item, including any recommendation they might have. The appropriate person may be the chair, a member of the governing body, a staff person, or a committee chair charged with providing information about the agenda item.

Third, the chair should ask members of the body if they have any technical questions for clarification. At this point, members of the governing body may ask clarifying questions to the people who reported on the item, and they should be given time to respond.

Fourth, the chair should invite public comments or, if appropriate at a formal public hearing, open the hearing. Speakers are typically limited to 3 minutes; shorter time limits may be imposed if numerous members of the public indicate a desire to speak to the subject. At the conclusion of the public comments, the chair should announce that public input has concluded (or that the public hearing, as the case may be, is closed).

Fifth, the chair should invite members of the body to make remarks on the matter. This is an opportunity for members of the body to state their views on the subject before any formal motions are made.

Sixth, the chair should invite a motion from the governing body members. The chair should announce the name of the member who makes the motion.

Seventh, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member who seconds the motion. It is normally good practice for a motion to require a second before proceeding with it, to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and a vote on the motion even when there is no second. This is a matter left to the discretion of the chair.

Eighth, if the motion is made and seconded, the chair should make sure everyone understands the motion. This is done in one of three ways:

- The chair can ask the maker of the motion to repeat it;
- The chair can repeat the motion; or
- The chair can ask the secretary or the clerk of the body to repeat the motion.

Ninth, the chair should now invite discussion of the motion by the members of the governing body. If there is no desired discussion or the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or a very brief discussion, the vote should proceed immediately, and there is no need to repeat the motion. If there has been substantial discussion, it is normally best to make sure everyone understands the motion by repeating it.

Tenth, the chair takes a vote. Simply asking for the “ayes” and then the “nays” is normally sufficient. If members of the body do not vote, then they “abstain.” Unless specific laws or procedures provide otherwise, a simple majority determines whether the motion passes or is defeated.

Eleventh, the chair should announce the result of the vote and should announce what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members, if any, who voted in the minority on the motion. This announcement might take the following form: "The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring 10 days' notice for all future meetings of this governing body."

MOTIONS IN GENERAL

Motions are the vehicles for decision making. It is usually best to have a motion before the governing body prior to discussing an agenda item, to help everyone focus on the motion before them.

The chair usually initiates the motion by:

- Inviting the members to make a motion: "A motion at this time would be in order."
- Suggesting a motion to the members, for example: "A motion would be in order that we give 10-days' notice in the future for all our meetings."
- Making the motion.

As noted, the chair has every right as a member of the body to make a motion, but normally should do so only if he or she wishes a motion to be made but no other member seems willing to do so.

THE THREE BASIC MOTIONS

Three motions are the most common:

The basic motion — The basic motion is the one that puts forward a decision for consideration. A basic motion might be: "I move that we create a five-member committee to plan and put on our annual fundraiser."

The motion to amend — If a member wants to change a basic motion that is under discussion, he or she would move to amend it. A motion to amend might be: "I move that we amend the motion to have a 10-member committee." A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

The substitute motion — If a member wants to completely do away with the basic motion under discussion and put a new motion before the governing body, he or she would "move a substitute motion." A substitute motion might be: "I move a substitute motion that we cancel the annual fundraiser this year."

Motions to amend and substitute motions are often confused. But they are quite different, and so is their effect, if passed. A motion to amend seeks to retain the basic motion on the floor, but to modify it in some way. A substitute motion seeks to throw out the basic motion on the floor and substitute a new and different motion for it.

The decision as to whether a motion is really a motion to amend or a substitute motion is left to the chair. So that if a member makes what that member calls a motion to amend, but the chair determines it is really a substitute motion, the chair's designation governs.

WHEN MULTIPLE MOTIONS ARE BEFORE THE GOVERNING BODY

Up to three motions may be on the floor simultaneously. The chair may reject a fourth motion until the three that are on the floor have been resolved.

When two or three motions are on the floor (after motions and seconds) at the same time, the first vote should be on the last motion made. So, for example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee, to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be as follows:

First, the chair would deal with the third (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion passes, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be complete. No vote would be taken on the first or second motions. On the other hand, if the substitute motion (the third motion) failed, the chair would proceed to consideration of the second (now the last) motion on the floor, the motion to amend.

If the substitute motion failed, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend passed, the chair would now move to consider the main motion (the first motion) as amended. If the motion to amend failed, the chair would now move to consider the main motion (the first motion) in its original format, not amended.

Third, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee) or, if amended, would be in its amended format (10-member committee). And the question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

TO DEBATE OR NOT TO DEBATE

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action. There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

A motion to adjourn — This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. This motion requires a simple majority vote.

A motion to recess — This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess, which may range from a few minutes to an hour. It requires a simple majority vote.

A motion to fix the time to adjourn — This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: “I move we adjourn this meeting at midnight.” It requires a simple majority vote.

A motion to table — This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on “hold.” The motion may contain a specific time in which the item can come back to the body: “I move we table this item until our regular meeting in October.” Or the motion may contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

A motion to limit debate — The most common form of this motion is to say: “I move the previous question” or “I move the question” or “I call for the question”. When a member of the body makes such a motion, the member is really saying: “I’ve had enough debate. Let’s get on with the vote.” When such a motion is made, the chair should ask for a second to the motion, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body. Note that a motion to limit debate could include a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar action is a motion to object to consideration of an item. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

MAJORITY AND SUPER-MAJORITY VOTES

In a democracy, decisions are made with a simple majority vote. A tie vote means the motion fails. So in a five-member body, a vote of 3-2 passes the motion. A vote of 2-2 with one abstention means the motion fails. If one member is absent or recused and the vote is 2-2, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions occur when the body is taking an action that effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super-majority) to pass:

Motion to limit debate — Whether a member says, “I move the previous question,” “I move the question,” “I call for the question” or “I move to limit debate,” it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

Motion to close nominations — When choosing officers of the body, such as the chair, nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers, and it requires a two-thirds vote to pass.

Motion to object to the consideration of a question — Normally, such a motion is unnecessary, because the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

Motion to suspend the rules — This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or for a particular agenda item.

THE MOTION TO RECONSIDER

There is a special and unique motion that requires a bit of explanation all by itself: the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to reconsider is made. The standards for reconsideration are set forth in the City Code.

COURTESY AND DECORUM

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. And at the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focus on the item and the policy in question, not on the personalities of the members of the body. Debate on policy is healthy; debate on personalities is not. The chair has the right to cut off discussion that is too personal, too loud or too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body. Can a member of the body interrupt the speaker? The general rule is no. There are, however, exceptions. A speaker may be interrupted for the following reasons:

Privilege — The proper interruption would be: “Point of privilege”. The chair would then ask the interrupter to “state your point”. Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person’s ability to hear.

Order — The proper interruption would be: “Point of order”. Again, the chair would ask the interrupter to “state your point”. Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

Appeal — If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded and after debate, it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

Call for orders of the day — This is simply another way of saying, “Let’s return to the agenda”. If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair’s determination may be appealed.

Withdraw a motion — During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

SPECIAL NOTES ABOUT PUBLIC INPUT

The rules outlined here help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

Rule One: Tell the public what the body will be doing.

Rule Two: Keep the public informed while the body is doing it.

Rule Three: When the body has acted, tell the public what the body did.

Public input is essential to a healthy democracy, and community participation in public meetings is an important element of that input. The challenge for anyone chairing a public meeting is to accommodate public input in a timely and time-sensitive way, while maintaining steady progress through the agenda items. The rules presented here for conducting a meeting are offered as tools for effective leadership and as a means of developing sound public policy.

Saratoga, California, Code of Ordinances >> Chapter 2 - ADMINISTRATION >> Article 2-15 - PLANNING COMMISSION >>

**Article 2-15 -
PLANNING COMMISSION**

Sections:

2-15.010 - Creation; number, appointment and removal.

2-15.020 - Term of office.

2-15.030 - Powers and duties.

2-15.040 - Regular meetings.

2-15.050 - Rules of procedure.

2-15.010 - Creation; number, appointment and removal.

There is hereby created a Planning Commission which shall consist of seven members to be appointed by the City Council. The City Council shall have the power to remove a Planning Commissioner by a vote of at least three Council members.

2-15.020 - Term of office.

A Planning Commissioner shall be appointed for a term of four years, unless the appointment is to fill a vacancy created by a Commissioner who has left office prior to the expiration of his term, in which event, the appointment shall be for the remaining term of such Commissioner. Any reappointment of a Commissioner whose term of office has expired shall be for a further term of four years.

2-15.030 - Powers and duties.

The Planning Commission is hereby designated as the planning agency of the City, as described in Section 65100 of the Government Code, and shall exercise the functions of a planning agency as prescribed in Section 65101 of the Government Code. The Planning Commission shall also exercise the powers and perform the duties conferred upon it by this Code and assigned to it from time to time by the City Council.

2-15.040 - Regular meetings.

The regular meetings of the Planning Commission shall be held on the second and fourth Wednesday of each month unless such day is a holiday, in which case the meeting may be held on such business day as designated by the Planning Commission or the meeting may be cancelled. The time of such meeting shall be 7:30 P.M., and the place shall be at City Hall in the Saratoga City Council Chambers. Any regular meeting may be cancelled by the Planning Commission upon announcement of such cancellation at the regular meeting preceding the meeting to be cancelled.

2-15.050 - Rules of procedure.

- (a) **Application of other Sections.** The following Sections of this Chapter pertaining to meetings conducted by the City Council shall be applicable to all meetings conducted by the Planning Commission:

2-10.020(b)

2-10.030 through 2-10.080

Sections Attached

2-10.110(c), (d), (f) and (g)

2-10.120 through 2-10.170

As so applied to the Planning Commission, all references therein to City Council or Council member shall be deemed to mean Planning Commission or Commissioner; all references therein to the Mayor shall be deemed to mean the Chairman of the Planning Commission; and all references therein to the City Clerk shall be deemed to mean the Secretary of the Planning Commission.

- (b) **Rejected motions and evenly split votes.** The failure of passage of any motion before the Planning Commission shall be deemed a denial of the motion; provided, however, a motion failing by reason of an evenly split vote by the Planning Commission at a meeting where six or less Commissioners are present shall be agendaized and voted upon at the next regular meeting of the Planning Commission at which a quorum is present, unless, within ten days after the date on which the split vote is taken, the applicant files an appeal to the City Council, in which event, the split vote shall be deemed a final denial by the Planning Commission of the motion. If no appeal to the City Council is filed and the motion fails for any reason (including an evenly split vote) at the subsequent meeting, then the same shall at that time be deemed a final denial by the Planning Commission of the motion.
- (c) **Adoption of rules and procedures.** In addition to the rules made applicable to the Planning Commission as specified in Paragraph (a) of this Section, the Commission shall have authority to adopt such other rules and procedures as it deems appropriate for the orderly and efficient conduct of its business which are not inconsistent with the provisions of this Code.
- (d) **Secretary of Commission.** The Planning Director shall act as Secretary of the Planning Commission.
- (e) **Chairman.** The Commission shall elect a Chairman to serve a twelve month term. No person shall serve as Chairman of the Planning Commission more than one full term in any four year period.

(Amended by Ord. 203 § 2, 2002)

2-10.020 - Agendas; submitting matters not included on agenda.

- (a) The City Clerk shall prepare an agenda of all matters to be submitted to the City Council at its regular meeting and shall furnish each member of the City Council, the City Manager, the City Attorney and each department head with a copy of the same prior to the Council meeting. The City Council shall, by resolution, establish procedures and time requirements for delivery to the City Clerk of reports, ordinances, resolutions, contracts, communications and other documents to be considered by the City Council at its regular meetings. A copy of such procedures and time requirements shall be furnished to each department head and conspicuously posted within City Hall at locations observable by members of the public.
- (b) Except as otherwise provided in this Article, a matter not included on the agenda may not be presented to the Council without first obtaining the consent of at least four Council members present at the meeting.

2-10.030 - Order of business.

The business of the City Council shall be taken up for consideration during its regular meetings in such order as shall be determined by resolution of the City Council. The regular order of business may, for any particular meeting, be suspended for any purpose by the presiding officer with the consent of a majority of Council members present at the meeting.

2-10.040 - Roll call.

Before proceeding with the business of the City Council, the City Clerk or his deputy shall call the roll of the members. The names of those physically present shall be entered in the minutes.

2-10.050 - Quorum.

A majority of all the members elected to the City Council shall constitute a quorum at any regular or special meeting of the Council. The presence or absence of a quorum shall be determined by the presiding officer.

2-10.060 - Minutes of meetings.

- (a) Any member of the City Council may, either during the course of a meeting or at any time prior to approval of the minutes for such meeting, request that the minutes contain a verbatim transcript of such portion of the meeting as specified by the Councilmember making the request.
- (b) At least two days prior to each regular meeting of the City Council, the City Clerk shall furnish each member of the City Council a copy of the minutes of the preceding regular or special meeting. Unless a reading of the minutes of the Council meeting is requested in open meeting by a member of the Council, such minutes may be approved without reading if the City Clerk has previously furnished each member with a copy thereof. Notwithstanding the provisions contained herein, a reading of the minutes may always be waived by a duly carried motion to waive the reading thereof.

2-10.070 - Voting.

A vote by roll call shall not be required in the City Council unless a Council member specifically requests a roll call after a motion is made, and before the presiding officer calls the vote. Unless a member of the City Council audibly states he is not voting, his silence shall be, and shall be recorded as, an affirmative vote.

2-10.080 - Presiding officers.

- (a) The presiding officer of the City Council shall be the Mayor, or in his absence, the Mayor pro tempore. He shall take the chair precisely at the hour appointed for the meeting and shall immediately call the City Council to order. In the absence of the Mayor or Mayor pro tempore, the City Clerk shall call the City Council to order, whereupon, a temporary presiding officer shall be elected by the Council members present. Upon the arrival of the Mayor or Mayor pro tempore, the temporary presiding officer shall immediately relinquish the chair upon the conclusion of the particular business immediately before the Council at that time. Wherein this Article the term mayor is used, it shall apply equally to the presiding officer as defined in this Section.
- (b) The presiding officer of the City Council shall have a vote, but no veto power, and may move, second and debate from the chair. He shall not be deprived of any of the rights and privileges of a Council member by reason of acting as presiding officer. He shall preserve strict order and decorum at all regular and special meetings of the City Council. He shall state or call upon the City Clerk to state every question before the City Council, call for the vote and announce the decision of the Council on all subjects. He shall decide all questions of order, subject however to an appeal to the Council by any Council member, in which event a majority vote of the Council shall govern and conclusively determine such question of order. He shall have and exercise such other powers and duties as are contained elsewhere in this Article and as authorized by law. The presiding officer shall have power and authority in his discretion and without a vote of the City Council, to do the following:
 - (1) Refer any matter, whether or not on the City Council agenda, for study and report. Such power shall not be exercised while a motion is on the floor covering such matter, until the motion is disposed of. Once a matter has been referred and a report rendered thereon, it shall not thereafter be referred a second time under this power but only by City Council action.
 - (2) Set time limits on City Council discussion on any matter.
 - (3) Set time limits on any communications from members of the public to the City Council.
 - (4) Declare the opening and closing of public hearings.
 - (5) Rule any motion on a subject not on the agenda as being out of order, in which case the motion shall thereafter be void and the City Clerk shall set the subject matter thereof down on the agenda of the next regular or special Council meeting.
 - (6) Table any motion on any matter until the next regular or special City Council meeting whenever the City Attorney advises that there is a serious question as to the validity or constitutionality of the particular proposed course of action which is the subject matter of such motion.
 - (7) Require any witness testifying to facts at any public hearing to be sworn before proceeding further with any such testimony.

2-10.110 - Procedure on ordinances, resolutions and other matters requiring action by City Council.

In consideration of matters requiring action by the City Council, the following procedure shall be observed:

- (a) Sponsorship of ordinances. Ordinances prepared in accordance with Section 2-10.090 and resolutions and other matters requiring action by the City Council must be introduced and sponsored by a member of the City Council; except that the City Manager or City Attorney may present the same and any Council member may assume the sponsorship thereof by moving that such ordinance, resolution or other matter be adopted.
- (b) Reading of ordinances. An ordinance may be introduced by the reading of title only. All ordinances shall be read in full, either at the time of introduction or passage, except when, after reading the title, further reading is waived at the time of introduction or passage by the unanimous vote of the Council members present at the meeting.
- (c) Resolutions. Resolutions may be presented in written or oral form. Where written, the resolution need only be read by title and number prior to action thereon, and only the motion adopting it need appear in the minutes. Where oral, the same shall be stated in full by the moving party, and if adopted, shall either be transcribed in full in the minutes or thereafter be reduced to written form separate from the minutes, executed by the presiding officer and attested by the City Clerk.
- (d) Motion failing to receive second. A motion failing to receive a second shall be deemed a rejection thereof by the City Council, and no further vote shall be taken thereon.
- (e) Rejected motions and evenly split votes. The failure of passage of any motion before the City Council shall be deemed a denial of the motion; provided, however, a motion failing by reason of an evenly split vote at a meeting where four or less Councilmembers are present shall be agendized and voted upon at the next regular meeting of the City Council at which a quorum is present. If the motion fails for any reason (including an evenly split vote) at the subsequent meeting, then the same shall at that time be deemed a final denial by the City Council of the motion.
- (f) **Motion for reconsideration.** A motion to reconsider actions taken by the City Council can be made only by a Council member on the prevailing side, but may be seconded by any Council member.
 - (1) A motion to reconsider the passage of an ordinance or the granting by the City Council of an application or request by any person for a permit, license, right, privilege, approval or contract shall be made only during the meeting at which the action was taken. If the motion is adopted, the action shall either be reconsidered at that meeting or agendized for the next regular meeting of the City Council at the discretion of the City Council.
 - (2) A motion to reconsider any action other than of the type described in subsection (f)(1) of this Section, may be made at any time. If a motion to reconsider any other action is made and adopted at a subsequent meeting, the action to be reconsidered shall be agendized for the next regular meeting of the City Council unless a request for reconsideration has been included and specifically identified on the agenda for the meeting at which the motion is adopted, in which case the City Council may act on the matter to be reconsidered at such meeting.

Nothing herein shall extend the statute of limitations applicable to any action taken by the City Council.

- (g) **Recording motions in minutes.** All motions shall be entered in the minutes, including motions failing for lack of a second, with the name of the Council member making the motion and, if a vote is taken thereon, the names of the Council members voting in favor of and in opposition to the motion.

(Amended by Ord. 71-135 § 1, 1994)

2-10.120 - Rules of debate.

The following rules shall be observed in debate in the City Council:

- (a) **Getting the floor.** Every Council member desiring to speak shall address the chair, and upon recognition by the presiding officer, shall confine all remarks to the question under debate.
- (b) **Interruptions.** A Council member, once recognized, shall not be interrupted when speaking unless it be on a point of order or as otherwise provided in this Article. If a point of order is raised while a Council member is speaking, the Council member shall cease speaking until the question of order is determined and, if in order, the Council member shall be permitted to proceed.
- (c) **Closing debate.** Debate on any matter may be closed upon motion adopted by a majority of Council members present at the meeting.
- (d) **Rules of order.** Except as otherwise provided in this Article, proceedings of the City Council shall be governed under procedures adopted by a resolution of the City Council and on file in the office of the City Clerk. No action affected by the failure or omission to observe or follow the rules of debate or other procedures as provided in this Section.

(Amended by Ord. No. 268, § 2.A, 5-6-09)

2-10.130 - Communications to City Council.

- (a) Any person desiring to address the City Council at a City Council meeting shall first secure the permission of the presiding officer; provided, that under the following headings of business, unless the presiding officer rules otherwise, any qualified and interested person shall have the right to address the City Council upon obtaining recognition by the presiding officer:
 - (1) **Agendized items.** Members of the public may address the City Council by oral communication subject to any time limits set pursuant to Section 2-10.080(b)(3), on any item on the agenda, before or during consideration of that item.
 - (2) **Nonagendized items.** Members of the public may address the City Council by oral communication subject to any time limits set pursuant to Section 2-10.080(b)(3), on any nonagendized matter within the subject matter jurisdiction of the City Council, that is, over which the City Council has control.
 - (3) **Public hearings.** Members of the public may address the City Council, subject to any time limits set pursuant to Section 2-10.080(b)(3), relating to the matter which is the subject of the public hearing, provided that once the public hearing has closed, the public may no longer address the City Council on that matter unless the City Council reopens the public hearing.

- (b)

All remarks shall be addressed to the City Council as a body and not to any individual member thereof. No person, other than the City Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Council without the permission of the presiding officer.

- (c) The following rules shall be applicable to written communications to the City Council:
- (1) Written communication to the City Council shall be distributed to the City Council at or prior to the next regular City Council meeting following receipt of the communication by the City Clerk except that written communications pertaining to a matter to be considered at a meeting other than a regular meeting shall be distributed to the City Council at or prior to that meeting. Written communications received by the City Clerk after 5:00 P.M. on the day of a City Council meeting are not required to be distributed at that meeting unless ten copies are delivered to the City Clerk at the meeting. Copies of written communications distributed to the Council shall be available for public review in the office of the City Clerk.
 - (2) Written communications shall not be read aloud unless requested by a council member.

(Amended by Ord. 71-134 § 1, 1994)

(Ord. No. 268, § 2.A., 5-6-09)

2-10.140 - Decorum of meetings.

- (a) While the City Council is in session, the members must preserve order and decorum. A member shall neither, by conversation or otherwise, delay or interrupt proceedings or the peace of the City Council, nor disturb any member while speaking or refuse to obey the orders of the City Council or its presiding officer except as provided in this Article.
- (b) Any person not a member of the City Council making personal, impertinent or slanderous remarks or who becomes boisterous while addressing the City Council shall forthwith be barred from further audience before the City Council, on order of the presiding officer, unless permission to continue be granted by a majority vote of the Council.

2-10.150 - Contempt of City Council.

While the City Council is in session, any person who acts in a disorderly, contemptuous or insolent manner towards the City Council or any member thereof, which conduct tends to interrupt the due course of such meeting, or any member of the public in attendance who fails, on demand of the presiding officer, to comply with any rule set forth in this Article, or any order of the presiding officer made in accord with the authority of this Article, shall be guilty of a misdemeanor. The presiding officer or the City Attorney may order such person to leave the Council Chambers immediately and upon any failure or refusal to do so, such person may be arrested and taken into custody by a deputy sheriff or other police officer.

2-10.160 - Adjournment or continuance of meeting.

Any meeting may either be terminated or continued to another time, place or date by adjournment, regardless of whether or not all matters on the agenda or under discussion have been covered, acted on or concluded. Notwithstanding the above provision, no meeting shall be terminated before closing all public hearings noticed for that meeting, without first continuing such public hearings to another time, place and date. Otherwise, a motion to adjourn shall always be in order and decided without debate. Where a meeting is continued to a future date, if either the time

or place is not stated in the order of adjournment, it shall be deemed to be at the hour and place specified for regular meetings of the City Council.

2-10.170 - Failure to follow provisions of Article.

Failure to observe the rules set forth in this Article shall not invalidate any action taken which is otherwise lawful, and defective only for failure to follow the procedure outlined in this Article.



SECTION 2

Meetings & Procedures

MEETINGS
& PROCEDURES

MEETINGS	13
PREPARING FOR MEETINGS	13
ABSTENTION AND DISQUALIFICATION	14
MEETINGS AND PUBLIC HEARINGS	15
BASIC MEETING PROCEDURES	16
PARLIAMENTARY PROCEDURE	17
CHAIRING MEETINGS	19
QUASI-JUDICIAL AND LEGISLATIVE DECISIONS	20
KEY CONSIDERATIONS FOR QUASI-JUDICIAL PROCEEDINGS	21
MAKING A DECISION	22
FINDINGS	22
THE RECORD	24
APPEAL TO THE GOVERNING BODY	24
JUDICIAL REVIEW	25

SECTION 2

Meetings & Procedures



MEETINGS

Planning commissions hold meetings—lots of them. All of the commission's discussions and decisions must occur at open and noticed meetings. (See Open Meeting Requirements, page 27). Commission meetings are often one of the few windows through which the public gets to see their government in action. The public's perception of government is often derived from how meetings are conducted. Members of the public—including those at home watching televised sessions—are not likely to distinguish between commissioners, staff, and others testifying at meetings. Therefore, fair and respectful treatment of all is very important.

There are generally three types of planning commission meetings:

- **Regularly Scheduled Meetings.** Decisions on individual projects are made at regularly scheduled meetings, many times after a public hearing.

- **Special Meetings.** Special meetings focus on specific issues. They often involve greater public outreach efforts. An example is a community workshop where members of the community are encouraged to come out and talk about a project that will affect their neighborhood. In some instances, the location of a special meeting may be different from regularly scheduled meetings to make it more convenient for attendees.
- **Work Sessions.** Work sessions provide a less formal atmosphere for the commission to receive information and discuss matters in a relaxed manner. They are often used for initially dealing with more complex or lengthy matters or to educate the commission about a specific policy. The commission is not allowed to make motions or take other actions to resolve a question or make a decision at work sessions.

PREPARING FOR MEETINGS

As a planning commissioner, your primary job is to make land use decisions that are consistent with your local agency's plans, ordinances, and policies. To be effective, you should review the entire agenda packet before each meeting. This means reading the development application for each project on the agenda, along with the staff report, environmental assessment, and relevant sections of the general plan and the zoning or subdivision ordinance.

It is important that your agenda packet—usually received a few days before each meeting—contains the information that you need to make good decisions.

Commissioners should work closely with staff to develop a format that presents the key information clearly and efficiently. In addition, the commission should ensure that staff delivers the packets in time to allow for ample review before meetings.

You may also want to ask staff clarifying questions you have before each meeting. The questions should only address ambiguities that you have identified in the staff report or other documents. Discussing these issues before meetings gives staff time to provide you with the most relevant information. It also speeds up the permit process by minimizing the chance that a decision will be postponed due to incomplete information.

At public meetings, you should be able to both ask and answer questions about the projects under consideration, their relationship to the general plan and ordinances, and their potential impacts on the community. If legal questions arise, don't be afraid to ask your agency's attorney for an opinion. Never take legal advice from anyone other than your agency's own lawyer.

ABSTENTION AND DISQUALIFICATION

When reviewing meeting agendas, you should keep an eye out for any items from which you should abstain or disqualify yourself. You may abstain from considering an agenda item when you have potentially conflicting loyalties that are not otherwise addressed by law. For example, if your cousin has a pending development application, the public would probably perceive that your personal loyalties conflict with your public duties. Even when you are certain of your impartiality, it can still be a good idea to abstain to avoid the appearance of impropriety. Disqualification, on the other hand, occurs when the law determines that you must not participate in a decision based on certain circumstances (see Ethics Laws, page 4).

Identifying potential conflicts before each meeting provides you and your agency counsel (not planning staff) the opportunity to examine how the laws apply to your economic interests. If necessary, you are more likely to have time to consult with the Fair Political Practices Commission to determine whether you are indeed disqualified or whether an exception applies. Early



The Duty to Decide, Not to Duck

What if the law allows you to vote but you would prefer not to? It can be tempting to abstain when you know a decision will be unpopular or when you simply do not know what the right decision is. However, you were appointed to make tough decisions. It is unfair to let your fellow commissioners take the heat for a necessary but unpopular decision. Instead, you should come to meetings fully prepared and ready to explain your decision.

identification of conflicts also enables staff to determine whether your disqualification will affect the commission's quorum on an item or whether your participation will be legally required despite the conflict (there are limited circumstances in which this occurs).¹

If you are disqualified from participating on a specific agenda item, you must:²

- Publicly identify the financial interest or potential conflict of interest in sufficient detail to be understood by the public
- Refrain from discussing or voting on the matter
- Leave the room until after the discussion, vote, and any other disposition of the matter, unless the matter is on the consent calendar

After disqualification, the only way to participate on the agenda item is as a member of the public during the public comment period. However, you may wish to consider how the public will perceive such testimony. You must balance your rights as an individual citizen against your duty to maintain the public's trust in the agency you serve.

There are limited exceptions that allow a disqualified official to remain in the room and participate when one's "personal interests" are at stake. These include:

- Interests in real property wholly owned by the official or his or her immediate family;

¹ Cal. Gov't Code § 87101; 2 Cal. Code Regs. § 18701.

² See Cal. Gov't Code § 87105; 2 Cal. Code Regs. § 18702.5.

HOW TO GET THE MOST OUT OF PUBLIC MEETINGS

- **Notice.** Send out notices far enough in advance so that people can adequately respond. It is often good practice to find alternative means of keeping the public informed. It is very difficult for groups (such as a neighborhood association) to meet, become informed, take a position, and prepare testimony within a ten-day (much less a three-day) notice period.
- **Accessibility.** Hold the meeting at a place that is easy to reach using alternative transportation choices. Make sure the location is accessible for those with physical disabilities.
- **Room Size.** Ensure that the room is large enough to hold everyone who wants to attend.
- **Written Materials.** Have sufficient copies of the agenda and written materials placed near the entrance of the room.
- **Procedural Explanations.** Provide brief summaries of local agency procedures to help people who are new to the process understand what is going on and tailor their comments appropriately.
- **Speaker Slips.** Many agencies use speaker slips to organize comments during meetings. Such slips should provide space for the person's name and the agenda item that they want to speak on.
- **Audiovisual.** If electronic equipment will be used, make sure it is working and tested in advance. If software programs like PowerPoint will be used, pre-load the presentations into the computer.
- **Other Logistics.** Make sure all the other things—such as microphones, recorders, projectors, easels, maps, overheads, name plates, gavel, timer, flags, water, and anything else that will be used during the meeting—are in place.
- **Special Needs.** Address special needs that are likely to arise that are specific to the meeting. For example, an interpreter might be appropriate if a large number of people who do not use English as their first language is expected.
- **Timing.** Start on time.

- A business entity wholly owned by the official or his or her immediate family; and
- A business entity over which the official (or the official and his or her spouse) exercise sole direction and control.³

Even though the law allows the public official to remain in the room when these interests are at stake, the public official may still wish to balance that option with the potential that the public may nonetheless perceive that the official is improperly trying to influence his or her colleagues.

MEETINGS AND PUBLIC HEARINGS

Public hearings are formalized opportunities for public comment. They are usually required for specific types of

actions, such as general plan adoption, zoning ordinances, development permits, and variances. The hearing guarantees that the fundamentals of due process—such as the right to notice and the opportunity to be heard—are incorporated into the decision-making process. (For more on due process, see Section 9).

Local agencies must give at least ten days notice for a public hearing (compared to the three-day notice for a general meeting required under the Open Meetings Law—(see page 28).⁴ For legislative actions such as general plan amendments or zoning ordinances, the notice is usually posted in a newspaper of general circulation. For development permits, notice must be mailed to affected property owners, including all owners within 300 feet of the affected parcel. These are the minimum standards that apply to all agencies.

³ 2 Cal. Code Regs. §§ 17802.5(d)(3), 18702.4(b)(1).

⁴ Cal. Gov't Code §§ 65090, 65095.

Individual agencies may adopt additional procedures at their discretion.

It is sometimes difficult to tell the difference between a general meeting and a public hearing, particularly when local agencies have incorporated similar processes into their general procedures. The planning commission may go back and forth between regular meeting and public hearing in the same session. If a public hearing is on the agenda, the chair will open the hearing at the appropriate time. The public is then given the opportunity to speak. At the end, the chair will close the hearing and deliberations on the item will proceed. Alternatively, the hearing can be continued to another meeting.

BASIC MEETING PROCEDURES

Meetings should be run in a manner that makes the person in the audience who has never attended a meeting before feel comfortable and able to participate. A simple, well-explained procedure is vital to inclusiveness. A typical meeting would include:

- Chair calls the meeting to order
- Commission secretary calls the roll
- Chair introduces key staff
- Chair reviews the commission's procedures
- Chair announces any changes to the agenda
- Commission acts on consent items
- Agenda items are addressed in turn
- Comments and questions
- Chair adjourns meeting

Most agencies use a "consent calendar" for routine items—such as approval of minutes—that can be handled without discussion. These items generally do not involve policy questions.

Regular agenda items include both public hearing and non-hearing items. Both types of items are handled in the same way. First, the chair asks if the applicant is

CIVILITY IN PUBLIC MEETINGS

Public debate includes the potential for disagreement, but this does not mean that civility has to go out the window. Civility is the notion of mutual respect, even in the face of disagreement. Uncivil meetings contribute to public alienation and antipathy towards government. Critics often claim that government's inability to deal with a broad range of issues results from the destructive way in which they are addressed.

The following are some tips for maintaining civility in meetings:

- **Separate People from the Problem.** Recognize that other thoughtful people have different views. Focus on solutions that are most likely to succeed. Avoid resolving disputes on an "us versus them" basis.
- **Limit Misunderstandings.** Make a continuing effort to understand the views and reasoning of people with opinions different than your own.
- **Get the facts.** Work together to resolve factual disagreements. Fact-finding can get opponents on the same page in terms of identifying the problem. When uncertainty in the data remains, contending parties need to explain the reasoning behind their differing interpretations.
- **Use Fair Processes.** Genuinely solicit and consider public input. Make decisions on the basis of substantive arguments.
- **Remain Open to Being Persuaded.** One crucial element of civility is the recognition of the possibility that others may have better ideas than your own. Seriously consider persuasive arguments and explain your own position.
- **Recognize the Good in Others.** As one author recommends: "Identify the biggest redeeming quality of that person who's always driving you crazy. Keep it in mind the next time the two of you interact."⁴

present. The chair may also find it helpful to determine how many other people also wish to speak about the application. This can often be accomplished by reviewing the speaker slips (pieces of paper filled out by those wishing to speak on an agenda item) that have been turned in to the commission secretary. The typical process for reviewing an application is:

- Staff report
- Commission questions of staff
- Applicant's presentation
- Commission questions to applicant
- Public comments
- Applicant's response
- Commission discussion

All questions should be addressed to the chair rather than to the applicant, staff, or anyone else. The chair should note these questions and ensure that they are answered. Other commissioners should also note issues of importance to them that are raised during testimony



Commenting During Meetings: How Much Is Too Much?

Public meetings are an exceptionally precious resource. Accordingly, most commissioners are selective about their participation in the discussion. However, some ask questions that would be unnecessary had they prepared for the meeting and a few even use meeting time to “grandstand.”

Commission meetings were not created as opportunities for individual commissioners to impress the media or the public. The goal is to accomplish the public's business as productively, efficiently, and professionally as possible. Most people are quick to spot comments that are more about self-promotion than about moving the discussion forward.

and bring them up later during the commission's deliberations.

The commission should openly discuss the issue at hand. It should state why it is making its decision and why it gives more weight to some factors than others. In many cases these reasons must be formally stated as findings. On complex projects, it is helpful to deal first with sub-issues, such as amendments to conditions, by making separate motions rather than making a motion to approve with numerous amendments.

In some cases when a public hearing is being held—or when there is a contentious or popular item that has attracted a lot of people—the commission may change the agenda order to accommodate those in the audience. However, doing so should be weighed against the chance that others might arrive later only to find that the issue on which they wished to speak has already been covered.

PARLIAMENTARY PROCEDURE

The rules of procedure at meetings govern how motions are made and votes are taken. Typically, this process is guided by *Robert's Rules of Order*. The rules themselves are quite detailed and do not always lend themselves easily to planning commission meetings. However, a simplified version of these rules was printed in a two-part article entitled “Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century” in *Western City* magazine.⁵ The summary below is drawn from these articles.

The rules of order are meant to create an atmosphere in which a meeting can be conducted efficiently, fairly, and with full participation. The chair and the members of the commission bear responsibility for maintaining common courtesy and decorum. It is generally best if only one person speaks at a time and for every speaker to be recognized by the chair before speaking. Debate and discussion should be focused but free and open. The chair should always ensure that debate and discussion of an agenda item focuses on the item and policy in question, not on the personalities of the individual commissioners or anyone else in attendance.

A proposed course of action is first presented formally as a motion. Three types of motions are most common:

⁵ David Rosenberg, *Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century* (pts. 1 & 2), *Western City*, Aug. and Sept. 2003; available at www.westerncity.com/articles.



Three Types of Motions:

Basic Motion: *"I move that we approve the Smith project as recommended in the staff report."*

Amendment to Motion: *"I amend the basic motion to add the requirement that the applicant incorporate the design features recommended in the neighborhood group report."*

Substitute Motion: *"I move to make a substitute motion that we reject staff's recommendation and accept the developer's proposal as presented to us originally."*

basic motions, motions to amend, and substitute motions. Basic motions are made when a commissioner recommends a specific action after saying, *"I move..."* You can change or amend the terms of a basic motion by saying, *"I move to amend..."* You can also completely replace the basic motion with another by saying, *"I move to make a substitute motion that..."*

Motions to amend and substitute motions are often confused. A motion to amend seeks to retain the basic motion but to modify it in some way. A substitute motion seeks to throw out the basic motion and substitute a new and different motion for it. The question of whether a motion is really a motion to amend or a substitute motion is left to the chair. If you make a motion to amend but the chair determines that it is really a substitute motion, the chair's determination stands.

A motion should be seconded to ensure that more than one member is interested in supporting it. Debate can continue as long as the commission wishes, subject to the decision of the chair that it is time to move on or take action. At some point during the debate, someone may make a motion to limit debate by saying: *"I move the previous question," "I move the question,"* or *"I call for the question."* What this motion is really saying is *"I've*

had enough debate. Let's get on with the vote." A motion to limit debate may include a time limit. For example: *"I move we limit discussion on this item to 15 minutes."*

When such a motion is made, the chair should ask for a second. Assuming there is a second, debate is stopped and a vote on the motion to limit is taken. A motion to limit debate requires a two-thirds vote.

Decisions are generally made by a simple majority vote. Usually, a simple majority of those present are required. However, there are a few instances—such as general plan approvals—where a majority of the entire commission is required.⁶ A tie vote means the motion fails. Thus, for a five-member commission, a vote of 3-2 passes the motion, but a 2-2 vote with one abstention means the motion fails. If a simple majority is required, but one member is absent and the vote is 2-2, the motion still fails. In some cases, a super-majority (two-thirds) vote may be required. Examples of this kind of action include motions to limit debate, close nominations, or suspend rules.

If there is no end to the discussion in sight and you want to move on, adjourn, or at least end the discussion, you can make one the following motions.

- **Motion to Adjourn.** Commission adjourns to its next regularly scheduled meeting.
- **Motion to Recess.** Commission takes immediate recess. Normally, the chair determines the length of the recess.
- **Motion to Fix the Time to Adjourn.** Commission adjourns at a specified time. For example, the motion might be: *"I move we adjourn this meeting at midnight."*
- **Motion to Table.** Discussion is halted and the agenda item is placed on hold. The motion can designate a specific time to return to the discussion or it may be indefinite: *"I move we table this item until our meeting in October"* or *"I move we table this item indefinitely."* When an item is tabled indefinitely, a commissioner will have to make a motion to take the item off the table at a future meeting.

These motions are not debatable and require an immediate vote, with a simple majority required for passage.

10-STEP FORMAT FOR DISCUSSION OF AN AGENDA ITEM

- | | | |
|--|---|--|
| <p>1] The chair announces the agenda item number and the subject.</p> | <p>5] The chair invites a motion and announces the name of the motion maker.</p> | <p>the motion to assure that everyone understands it.</p> |
| <p>2] The chair invites the appropriate staff to report on the item.</p> | <p>6] The chair asks for a second and announces the name of the person seconding.</p> | <p>9] The chair takes a vote. Simple “ayes” and “nays” are normally sufficient. A person not voting abstains. A motion passes with a simple majority unless there is a super-majority requirement.</p> |
| <p>3] The chair asks members of the commission if they have any clarifying questions for the staff.</p> | <p>7] If a motion is made and seconded, the chair makes sure everyone understands by repeating it or asking the maker to repeat it.</p> | <p>10] The chair announces the result, indicating the names of the members, if any, who voted in the minority. For example: “The motion passes by a vote of 3–2, with Smith and Jones dissenting. We have passed the motion requiring 10 days’ notice for all future meetings of this body.”</p> |
| <p>4] The chair invites public comments. Reasonable time limits—usually 3 to 5 minutes per person—may be imposed. Discussion is closed after everyone is given the opportunity to speak.</p> | <p>8] The chair invites discussion of the motion among the commissioners. Upon conclusion, the chair announces that it is time to vote. The chair should repeat</p> | |

CHAIRING MEETINGS

At some point, it is likely that you will be asked to chair one or more meetings of the commission. The attitude and abilities of the chair are critical for an effective meeting. The chair sets the tone of the hearing by keeping the discussion on track, encouraging fairness, and bringing the commission to the point of decision, even on complicated or controversial issues. A capable chair will bring many personal attributes—such as active listening, tact, decisiveness, and patience—to the role.

In addition, the chair must think quickly to articulate positions, clarify motions, and give direction to staff based on the differing views of individual commissioners. A very important—and often underrated—key to chairing a meeting is having a full understanding of the agenda items. Effective chairs put extra effort into studying the agenda and preparing for the meeting to better understand the nuances of the issues and options before them.

It is common practice for the chair to take a less active role in debates and discussions. This does not mean that the chair should not participate. On the contrary, as a member of the body, the chair has full rights to participate in discussions. The chair should, however,

usually offer his or her opinions last and should not make or second a motion unless he or she is convinced that no other member of the body will do so.

The responsibilities of the chair include:

- **Open the Meeting.** Explain why the meeting is being held, review the agenda and note any changes, and review the procedures and time limits (if any) that are in effect.
- **Manage Public Testimony.** Describe the agenda item and ask speakers to identify themselves. Ask speakers to be concise and not repeat points made by prior speakers. Intervene when speakers ramble or when successive speakers repeat the same testimony. Assure that people have a reasonable length of time to testify and balance that with the number of people who want to testify. Sometimes there is a tendency to be easy on the time limits in the beginning of a meeting and more strict at the end. It's fairer for all if the time limits are applied consistently throughout.
- **Facilitate Deliberations.** Summarize issues, ask for input from the commission as a whole, and ask for more information from staff if necessary. When commissioners disagree, assist them in expressing

their various concerns. When a motion is proposed, assure that it is stated understandably before a vote is taken. At times, the chair may have to move the meeting along by asking for or suggesting a motion (“A motion at this time would be in order” or “A motion would be in order that we adopt staff’s recommendation”).

- **Maintain Order.** Assure that commissioners wait to be recognized before speaking and intervene to prevent more than one speaker from talking at a time. Do not allow members of the public to clap or cheer. Likewise, quickly step in when sharp words are exchanged. Limit dialogue between commissioners and persons testifying to fact-gathering that will contribute to the commission’s decision-making ability.
- **Apply the Rules of Procedure.** Be familiar with the commission’s procedures and agenda items. The chair’s decision is final on most rules of procedure.
- **Draw Out Reasons for a Decision.** Make sure that findings are adopted when required. When the commission makes a decision that is contrary to staff’s recommendation, make sure that the reasoning for the decision is explained so that the relevant findings can be drafted.

These duties are a lot to keep in mind, particularly the first few times you are called upon to chair a meeting. However, chairing a meeting is an acquired skill and you will become better at it the more you do it.

QUASI-JUDICIAL AND LEGISLATIVE DECISIONS

Understanding the type of decision that the commission is being asked to make will help you understand your role in making the decision. Most land use decisions can be divided into two categories: legislative and quasi-judicial. Legislative decisions involve policy choices that apply to a broad class of landowners. Examples include decisions to adopt general plans and zoning ordinances. In contrast, quasi-judicial decisions (also called adjudicative or administrative decisions) involve individual projects that are being considered for approval or imposition of conditions. Examples include zoning permits or other entitlements, such as variances.

The key difference between the two from a decision-making perspective—as is discussed in more detail in the next subsection below—is that procedural due process requirements apply to quasi-judicial decisions. Because these decisions are more formal, you have to be

QUASI-JUDICIAL ACTS	LEGISLATIVE ACTS
<ul style="list-style-type: none"> ■ Conditional use permits ■ Variances ■ Coastal zone permits ■ Subdivision maps ■ Williamson Act cancellations ■ Development allotment per growth control ordinance ■ Certificates of compliance ■ General plan consistency determination ■ Habitat conservation plan amendments ■ CEQA decisions requiring hearings and evidence 	<ul style="list-style-type: none"> ■ Airport land use plans ■ Water district annexations ■ Planned unit developments ■ Zoning and zoning amendments ■ General plan adoption ■ Annexations ■ Special assessment establishment ■ Road abandonment ■ Specific plans ■ Habitat conservation plans ■ CEQA decisions not requiring hearings or evidence

more careful about the sources of information you use to make your decision.

There is also a third type of decision that may arise from time to time: ministerial decisions. These actions are those mandatory, nondiscretionary activities that must be approved if certain standards are met. A final subdivision map, for example, must be granted when all of the conditions of the tentative map are met. Likewise, certain applications for second unit or “granny flat” approvals in single-family neighborhoods are ministerial.

KEY CONSIDERATIONS FOR QUASI-JUDICIAL PROCEEDINGS

As a commissioner, you play a unique role when you are considering an individual application or other quasi-judicial decision. In a way, you are operating as a court in that you are applying the local land use regulations to a specific application just as a court applies the law to a specific set of facts. Because of this, you should limit your decision to facts that are presented as part of the quasi-judicial process, just as a court basis its decision on the evidence presented before it.

This does not mean, however, that the commission must have detailed rules of evidence like a court does. The public hearing format is much simpler. However, you do need to be aware of how the basic requirements of procedural due process may affect your ability to make a decision. Basic procedural due process requirements include:

- **Notice of Hearing Required.** Quasi-judicial proceedings almost always involve a public hearing. Affected property owners should receive notice of the hearing by mail at least 10 days in advance, although different timelines and procedures may apply in charter cities.⁷
- **Decision-Maker Must Be Present For All Evidence.** Anyone involved in making the decision must have heard all the evidence. This becomes an issue if you miss a meeting where evidence is presented but the vote is postponed to a later meeting that you attend. While the best practice is to be present for all hearings, in some cases you may still vote after reviewing the tape or testimony of the earlier meeting, reading all



documents involved, reviewing all aspects of the issue presented, and stating on the record that such review and examination was completed.⁸ However, your agency’s attorney may recommend that you abstain from the vote to avoid questions about fairness.

- **Avoid Ex Parte Contacts.** An *ex parte* communication about a project occurs when you receive information—by meetings on the street, phone calls, and even e-mails—outside of the quasi-judicial process (*ex parte* is Latin for “from one side only”). Reliance on information received in this way can be unfair because the opposing parties are not there to rebut the information. If you are about to receive this kind of information, you should explain that you are not permitted to discuss the issue outside of the hearing. Ask that the person submit their comments in writing for the consideration of the entire planning commission. The comments will then be included as part of the record (and have greater legal effect). You should also discuss the contact with the agency’s attorney. You may be able to resolve the problem by disclosing the contact and the substance of the communication at the hearing. This will get the evidence you received on the record.
- **Site Visits Raise Concerns.** It is often tempting to visit a project site to get a better feel for the issues. However, this action raises due process concerns. The visit provides you with an opportunity to draw conclusions outside of the hearing process. For example, if neighboring owners are concerned about traffic congestion and you visited the property on a

⁷ Cal. Gov’t Code § 65091.

⁸ David J. Curtin, Jr., & Cecily T. Talbert, *Curtin’s California Land Use and Planning Law* (Solano Press, 2004).

Sunday morning when there was no traffic, you might dismiss their claims as unwarranted. They may have just assumed you knew their concern was about congestion at peak travel times. Many local agencies require that you disclose any site visits that you may have made—along with any conclusions you drew from such visits—at the beginning of the hearing. Other agencies may take a more conservative approach. Always check with staff or the agency's attorney to see what procedures may apply to your commission.

- **Strong Personal Bias May Require Disqualification.** Strong personal bias may require that you disqualify yourself from making a decision. Procedural due process is built on the notion of an unbiased decision-maker. If you have spoken out for or against a specific project, you should consult with your agency's attorney to see if rules of common law bias require your disqualification. However, general predispositions—such as being generally concerned about the environment—are not enough to make disqualification necessary.⁹

Note that these rules generally apply only to quasi-judicial decisions. When you are making legislative decisions, such as adopting zoning ordinances, you have more freedom to gather your own information—such as by contacting members of the community and visiting sites—to help in making your decision.

MAKING A DECISION

The primary job of a planning commission is to make informed land use decisions. Reaching decisions that can be supported by a majority of the commission is often difficult and requires a well-structured meeting and discussion. The following tips may help in the decision-making process:

- Accept that you probably aren't going to make a project perfect.
- Remember that you have more choices than to simply approve or deny a project as presented. Be prepared to suggest changes that address a concern that you have or that was raised during public testimony. Be aware that the applicant may have already made changes to

the project prior to the hearing. Ask about any such changes.

- Establish time limits and review periods to ensure that the project is implemented as the commission has required.
- Check with staff to see if a suggested condition can be enforced.
- Carefully consider the nexus (connection) to the project of any condition you wish to place on it. Does the condition really address a problem that will result from the project?
- Be willing to approve a project in concept and give staff clear direction to work with the applicant to complete the project.
- Consider the relationship of the project to the entire community and to your understanding of the community's goals and policies.
- Draw the line on conditions. Too many can overburden a project. If a project requires too many conditions, should you really be approving it? Remember, it is okay to deny a project if you have good legal cause.

Depending upon local procedures, the commission's decision on a project may be: (1) referred to the city council or board of supervisors as a recommendation for action (this is common for general plan amendments and rezonings) or (2) considered a final action unless appealed to the council or board (this is common for subdivisions, variances, and use permits).

FINDINGS

Findings are written explanations of why—legally and factually—the planning commission made a particular decision. They map how the commission applied the evidence presented to reach its final conclusion. Findings should be developed with at least five audiences in mind: the general public, interested parties, the governing body, other governmental entities, and courts. Sometimes you may hear staff say that findings must “bridge the analytic gap.” This refers to a leading court decision that stated that findings must bridge the

⁹ See *Fairfield v. Superior Court*, 14 Cal. 3d 768 (1975); *BreakZone Billiards v. City of Torrance*, 81 Cal. App. 4th 1205, 1235-1241 (2000).



Questions Findings Should Answer

Findings should answer the following questions, as relevant to the particular decision:

1. Why was the regulation adopted or rejected?
2. Why was the permit approved or denied?
3. How does the decision meet relevant statutory requirements?
4. What is the connection between the action and the benefits of the project?
5. What public policy interests are advanced by the decision?
6. What do particular provisions, restrictions, or conditions mean?

analytic gap between the evidence presented and the agency's ultimate decision.¹⁰

Findings are helpful to the public. They offer an important opportunity to show how the commission's decision promotes the public's interests. In addition, findings:

- **Encourage Interagency Communication.** Findings can explain the basis of the commission's decision to the governing body.
- **Assure That Standards Are Met.** Some laws require that certain findings must be made before the commission can take a particular action.
- **Help Courts Interpret the Action.** Courts often look to the findings to determine the underlying rationale for an action or requirement. Findings provide the local agency with an opportunity to tell its side of the story.

Findings are always required when local agencies are acting in their quasi-judicial capacity¹¹—that is, when they are making decisions on individual permits.

Findings are also required for certain legislative decisions. It is often a good idea to develop findings even when they are not required, particularly for decisions that may be controversial or lead to litigation.

How findings are drafted will vary—and there is no perfect way to do it. Typically, the staff report includes a proposed set of findings that supports staff's recommendation. Proposed findings provide a starting point for the commission to develop the final set of findings. The drawback is that the commission may not adopt the recommended position, requiring the preparation of a new set of findings. Even if the commission adopts staff's position, the proposed findings may not reflect the entire record because they are usually written before any public testimony.

Some local agencies have tried to address this challenge in two ways. The first is to include two proposed sets of findings in the staff report, one in support of staff's position and one in support of the opposite position. This method, however, has its own drawbacks. In addition to creating more work for staff, the unused set of findings provides a starting point for anyone who wants to appeal the decision. Also, some members of the public find it hard to understand how the same set of facts can be used to support both positions.

The second and more common method is for the commission to make a tentative decision at the meeting and explain its reasoning to staff. Staff can then draft the findings and return them to the commission at the next meeting, where the decision can be finalized and the findings adopted. This approach is not always viable when time deadlines (such as those imposed by the Permit Streamlining Act) require a decision before the next meeting is scheduled to occur.

Regardless of how findings are drafted, there are always some instances when the commission will need to articulate its findings orally immediately upon taking action. The challenge in such a situation is to develop findings on the fly that are specific enough to withstand judicial review. The following four-step process will help in such situations:

¹⁰ *Topanga Association for a Scenic Community v. County of Los Angeles*, 11 Cal. 3d 506 (1974).

¹¹ *Id.*

- State the impact (either positive or negative) of the project
- Cite the source of the information (for example, a study, testimony, or other evidence)
- Refer to the relevant governing statute, regulation, or ordinance
- Describe in detail why or how the project's impact either meets or fails to meet the requirements included in the statute, regulation, or ordinance

One of the simplest techniques is to use the word "because." It connects the reasoning to the legal principle. For example:

- *"The project is inconsistent with Section III (A) of the housing element because only 3 percent of the units will be affordable instead of the required 15 percent."*
- *"The 100-foot-wide buffer does not threaten bird and wildlife migration because the biologist's report notes on page 32 that 65 feet is sufficient for each species in the project area."*

THE RECORD

A key aspect of quasi-judicial hearings is the administrative record. The record is the collection of all evidence presented to the commission during the proceeding. This includes all written documents, testimony, photographs, maps, and any other evidence that was submitted during the hearing. Your own personal knowledge may also be relied upon as long as you announce it during the hearing (see page 21).

The record can include any written documents in the files of the local agency. Always be careful about what documents that you submit to planning staff. There have been instances where things have made it into the record—such as e-mails—that later turned out to be embarrassing. It is always a good rule to keep your communications with staff and others professional, particularly when they are expressed in writing.

Another issue that comes up from time to time is the level of detail used to express particular opinions and positions in the commission minutes. Different agencies

have different forms of minutes—but it is difficult to ask the minute taker to take such detailed notes. Many agencies have solved this issue by taping the commission hearings.

APPEAL TO THE GOVERNING BODY

The process for appealing a planning commission decision will vary with each agency. Typically, commission decisions can be appealed to the governing body, which may overturn the commission's decision, adopt it, or modify it. In some instances, an applicant may request that only a specific portion of the commission's decision—such as a fee or mitigation condition—be reconsidered. Even in these cases, the governing body may decide to revisit the entire decision.



What Is in the Record

The information that is included in the record can vary with the proceeding, but typically includes:

- The application
- A description of the property or area at issue
- Correspondence between the applicant and staff
- The staff report
- Written comments submitted by others
- Oral evidence given at the public hearing (memorialized)
- Plats, plans, drawings, photographs, deeds, and surveys
- Consultant reports
- Written testimony
- Records of mailed and published notices
- Relevant portions of the general plan, any specific plans, the zoning ordinance, and other ordinances and policies

In some communities, the planning commission may sit as an appeals board for decisions made by a zoning administrator, staff, or some other commission (like a historical resources or landmarks commission). Usually, these procedures are governed by specific guidelines contained in the local agency's zoning or development code.

JUDICIAL REVIEW

If an applicant or community member has appealed an action to the governing body and is still not satisfied with the result, he or she may seek corrective action in the courts. This is another point where the distinction between legislative and quasi-judicial actions is important. Courts are more deferential to legislative actions because they involve policy choices. Our legislative system of government reserves policy choices for the legislative branch. Because of this, courts will only look to see that legislative decisions were not arbitrary, capricious, or entirely lacking in evidentiary support.¹²

In contrast, quasi-judicial decisions are scrutinized more closely because the local agency is acting more like a court than a legislative body. Courts will examine whether there was substantial evidence to support the agency's findings. The court will uphold the agency's decision if the evidence substantially supports the findings or decision.¹³



There are individual cases in which courts may apply a stricter standard. For example, when vested rights are at issue (see page 105), courts may apply an independent judgment test that allows the court to reweigh the evidence and substitute its own conclusions.¹⁴ Likewise, stricter tests may apply for constitutional issues, such as free speech.¹⁵ In such cases, the quality of the underlying administrative record and the local agency's findings will often be at the heart of the case.

¹² See for example *California Hotel & Motel Association v. Industrial Welfare Commission*, 25 Cal. 3d 200 (1979).

¹³ *Sierra Club v. California Coastal Commission*, 19 Cal. App. 4th 547 (1993).

¹⁴ Cal. Civ. Proc. Code § 1094.5(b), (c); *Strumsky v. San Diego County Employees Retirement Assn.*, 11 Cal. 3d 28, 44-45 (1974); *Goat Hill Tavern v. City of Costa Mesa*, 6 Cal. App. 4th 1519, 1525 (1992).

¹⁵ See *Desert Outdoor Advertising, Inc. v. City of Moreno Valley*, 103 F.3d 814, 820 (9th Cir. 1996), cert. denied, 522 U.S. 912 (1997).





PLANNING COMMISSION STUDY SESSION MEMORANDUM

TO: Planning Commission
FROM: James Lindsay, Community Development Director
MEETING DATE: April 11, 2011
SUBJECT: Meeting Schedule

DISCUSSION:

Staff is forecasting eight agenda items for the April 25th Planning Commission meeting, three of which are items that have already been continued once. Therefore, we are recommending the Commission consider starting the meeting an hour earlier to help avoid additional continuances.

The Commission has historically held study sessions on a Tuesday evening right after conducting site visits which results in two night meetings in a row. The Commission may wish to consider conducting future study sessions at 5:00 PM the night of regularly scheduled meetings. This schedule would be similar to City Council meetings where the Council holds special meetings an hour before their regular meetings.

RECOMMENDATION:

- 1) Direct staff to set the start time of the April 25, 2012 meeting for 6:00 PM.
- 2) Set the next Study Session for 5:00 PM, Wednesday May 9, 2012.

ATTACHMENTS:

PC Agenda Forecast