

APPENDIX A

Notice of Preparation



City of SARATOGA
Notice of Preparation of
Draft Environmental Impact Report (EIR)

Project Name	Palm Villas Saratoga
Project Location	Saratoga Creek Drive (APN' s 389-06-020 & 389-06-021)
Applicant Name	Michael Sneper
Public Scoping Meeting	February 26, 2019 at 6:00 p.m.
Meeting Location	Saunders Room, Saratoga Senior Center, 19655 Allendale Ave Saratoga, CA 95070

The City of Saratoga (City) intends to prepare an Environmental Impact Report (EIR) for the Palm Villas Saratoga (proposed project). The proposed project would consist of the construction and operation of a Residential Care Facility for the Elderly (RCFE) consisting of two - buildings on two adjacent lots. The two buildings have been designed to function as a single complex. One building would be for individuals with mild stage Alzheimer's/Dementia and the second for individuals with advanced stage Alzheimer's/Dementia. The proposed project (including both buildings), would include a combined total of 79 beds, related support functions (such as food service, pharmacy, laundry, administration, etc.), 38 parking spaces, landscaping (including removal of some trees), utility connections, and an extension of Saratoga Creek Drive.

As required by the California Environmental Quality Act (CEQA), the City has prepared a Notice of Preparation (NOP). The purpose of the NOP is to inform recipients that the City is beginning the preparation of the EIR and to solicit comments concerning the scope and content of the environmental review. The NOP includes an introduction to the proposed project, a description of the proposed project and its location, a summary of potential project impacts, and information on how to provide comments to the City.

The City is holding a public scoping meeting to provide an opportunity for the public to learn about the project and to share any concerns or comments they may have. The meeting will be held on Tuesday, February 26, 2019, at 6:00p.m. at the Saunders Room, Saratoga Senior Center, 19655 Allendale Ave, Saratoga, CA 95070

All scoping comments must be received by March 11, 2019. To send written comments, contact Nicole Johnson, City of Saratoga, Community Development Department. 13777 Fruitvale Avenue, Saratoga, CA 95070. Comments may also be sent via email to njohnson@saratoga.ca.us, with a subject line that states "Palm Villas."

City of Saratoga Community Development
Department, Nicole Johnson, Planner II
13777 Fruitvale Avenue
Saratoga, CA 95070
Email:
njohnson@saratoga.ca.us

Nicole Johnson
Planner II

Vicinity Map



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March 11, 2019

VIA E-MAIL ONLY

Nicole Johnson, Planner
City of Saratoga
Community Development Dept.
13777 Fruitvale Avenue
Saratoga, CA 95070
njohnson@saratoga.ca.us

Re: Notice of Preparation of Draft Environmental Impact Report for the Palm Villas Saratoga Project (APN's 389-06-020 and 389-06-021)

Dear Ms. Johnson:

Thank you for the opportunity to provide comments on the preparation of the Environmental Impact Report (EIR) for the Palm Villas Residential Care Facility for the Elderly. Our firm represents the Abrams family, majority owners of seven parcels in the surrounding professional village, two of which are vacant and immediately adjacent to the proposed project site. The Abrams family, and many other owners within the professional village, have serious concerns with the proposed use and design of the project related primarily to parking and circulation, aesthetics, neighborhood compatibility, protection of riparian resources, and recreation. The comments below are intended to provide background on the project site's history and a summary of issues that should be addressed in the EIR.

It must be emphasized that these comments are preliminary at this point. Our clients have not been able to obtain from the City a complete set of project plans. We hope that the

plans will be publicly available soon, so that our clients and the neighboring property owners may be able to properly evaluate the proposed project.

Background

The two lots proposed for the Palm Villas project are part of a Tract Map that was created by the Saratoga Professional Village subdivision in 1961. At the time of the subdivision, the developer recorded a set of Covenants, Conditions, and Restrictions (CC&R's) and its own Architectural Review Board to govern the layout, design and function of the Professional Village separate and apart from the zoning regulation in effect at the time. As a result, the building layout, design, parking configuration, and internal vehicle circulation is unique and does not match what current zoning would allow today. Specifically, the existing structures in the Professional Village have relaxed street frontage setbacks to provide for parking at the "rear" of each building such that patrons enter individual offices from parking areas away from street frontage. In addition, City parking standards at the time required only one space per 500 square feet of office space, but the development was parked at a higher ratio of one space per 200 square feet. This standard was later adopted by the City for the PA Zone. To create an aesthetically pleasing office-park neighborhood, driveways and parking areas are shared via reciprocal easements with consistent landscaping buffers throughout. While the CC&R's and Architectural Review Board are no longer in enforcement, the design of any new project within the Professional Village must respect the unique layout and configuration of the existing buildings, landscape buffers and parking areas in order to ensure neighborhood compatibility and the rights of the various parking and driveway easements. Unfortunately, the Palm Villas project completely ignores these important considerations, and this omission must be addressed in the EIR.

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Project Description

The project description provided in the Notice of Preparation states that the project will be built on two *adjacent* lots. Adjacent lots by definition are those contiguous to each other where the common parcel lines abut. However, Saratoga Creek Drive, a fee-owned public roadway, intervenes between the two Palm Villas parcels and therefore the two parcels cannot be treated as adjacent. This is relevant because the applicant is proposing to provide shared parking between the two lots with the majority of parking located on Lot 2. This scheme is in direct conflict with Section 15-35.020(h) of the City's Zoning Ordinance which states, in part, as follows:

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"In all districts except a C-H district, the off-street parking spaces prescribed in Section 15-35.030 shall be located on the same site as the use for which the spaces are required,

or on an adjacent site *or a site separated only by an alley* from the use for which the spaces are required.” (Emphasis added)

The applicant is also proposing to share one loading area between two separate sites. Similar to the proposed shared parking, this is in direct conflict with section 15-35.050(g):

“Off-street loading spaces shall be located on the same site as the use for which the loading spaces are required or on an adjacent site.”

Clearly, the intent to allow shared parking or loading areas on an adjacent site, or across an alley is substantially different from sharing across a public roadway, where significant traffic conflicts between vehicles and pedestrians would result. The EIR must discuss not only these inherent design-related traffic impacts but also the inconsistency between the proposed project configuration and the codified parking requirements of the zoning ordinance. Additionally, the EIR must discuss the limited functionality related to operating a residential care facility located on two lots separated by a public roadway and the related public safety concerns.

The proposed project would result in several instances of trespass over our clients’ driveway and parking easements. Those areas include the walk gate through the easterly (rear) fence, which opens onto our clients’ parking and driveway easement, installation of curbs within our clients’ easement in the southwest portion of parcel 2, and additional curbs which encroach on those easements in the southeastern corner of parcel 2.

Traffic, Parking and Circulation

A nursing facility which is bisected by a public street presents many obvious and significant traffic, parking and circulation issues. A complete traffic, parking and circulation study will be required to address the wide variety of issues with this unconventional design.

The project plans fail to describe the completion of Saratoga Creek Drive. The project plans indicate that the roadway will not be extended to the subject property’s southern boundary. Extension of this road is required by the City’s General Plan. Instead, an emergency vehicle turnaround is being proposed within the public roadway. It is unclear how this turnaround will function and what impacts its design will have on public safety, circulation or on-street parking. Each of these issues must be fully discussed in the EIR and reasonable alternatives identified, consistent with City parking and circulation policy. Saratoga Creek Drive is designed to extend to the accompanying 10-acre, undeveloped parcel immediately to the south of the proposed project. This parcel, owned by the Abrams family, will eventually be developed and will depend on Saratoga Creek Drive for access and circulation. Traffic congestion caused by the emergency

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turnaround, as well as the project's internal circulation across Saratoga Creek Drive, will cause obvious conflicts with the future use of this public street and must be evaluated in the EIR.

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cont.

The proposed emergency vehicle turnaround is not indicated as suitable for delivery trucks or trailers, and no suitable truck turnaround is identified for accessing the loading area on Parcel 2.

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The entire project appears to be substantially under-parked. This is exacerbated by the elimination of approximately 6 surface parking spaces on Parcel 2, as shown on the applicant's original proposal, which are now dedicated to a loading area. The Abrams family hired its own traffic engineer to evaluate the original project, and he concluded that it was substantially under-parked. As a consequence of this deficiency in parking, traffic from the proposed project will be forced onto private driveways and parking areas of adjoining properties. This would constitute a trespass and negatively impact the parking capacity of the adjoining lots.

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The project proposes an off-street loading area which is immediately adjacent to parking and driveway easements of the adjoining parcels to the east of Parcel 2. There are obvious traffic conflicts that will be caused by this.

The project's traffic, circulation and parking design presents substantial issues of incompatibility with adjoining and long-standing uses in the Professional Village. There appears to be inadequate egress and turn-around areas for large vehicles, including emergency vehicles which surely would be making a substantial number of visits to the proposed nursing facility. In addition, it is not clear whether the proposed underground parking entrances will be easily observable by motorists, and those entrances appear to conflict with immediately adjoining entrances to the Professional Village parking lots, and the assumed pedestrian crossing of Saratoga Creek Drive. The current plans have omitted a marked pedestrian crossing of Saratoga Creek Drive, which was on the original plans. There obviously will be pedestrian traffic between the two buildings. The line of sight between autos and pedestrians should be evaluated at all driveway openings. Of particular concern are the proposed ramps to underground garages, with 15% slopes that create obvious line of sight difficulties for auto/pedestrian conflicts.

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The project plans completely omit sidewalks on Saratoga Creek Drive. There is a requirement for ADA access from Cox Avenue. Omission of such access adds to traffic and pedestrian circulation problems presented by the project.

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All of the conflicts mentioned above must be identified in the EIR and alternatives identified to insure feasibility and compatibility with the immediate surrounding neighborhood.

We would be happy to provide you with the traffic analysis previously prepared by the Abrams family's traffic engineer upon request, as it is quite lengthy.

Aesthetics

As discussed above, the existing developed parcels within Saratoga Professional Village were constructed under the guidance of unique CC&R's and its own architectural design standards. As a result, there is a consistent look and function to the area with respect to architectural style, street frontage setbacks, landscaping and lot coverage. The EIR therefore must include an analysis of the compatibility of the proposed project with the surrounding existing development.

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Our clients, and their neighbors, have significant concerns about the mass and scale of the proposed buildings, which are totally out of proportion to the existing one-story professional buildings within the Professional Village. There appears to be a lack of landscaping setbacks, as are present with the existing buildings. The proposed, massive two-story buildings are likely to tower over neighboring buildings and will cause sunlight to be shaded on the adjacent parcels.

The project proposes an off-street loading area which is immediately adjacent to a primary driveway easement that provides egress to many separate parcels and creates a private road. The loading area should be set back from the roadway and be screened from view.

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The project fails to include adequate landscape buffers in several instances. For example, we understand that a landscape buffer is required on the east side of parcel 2, to separate the proposed building and fence from our clients' parking easement. This is another example of how the project is inconsistent with the current layout and design of the existing Professional Village, and would negatively impact the aesthetics of the area.

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Where inconsistencies between the proposed design and the existing neighborhood are found, the EIR must identify mitigations in the form of design changes such that a cohesive pattern of development is maintained, with a range of feasible alternatives.

Noise Nuisance and Air Pollution

Saratoga Professional Village is occupied only by Permitted Uses listed in Section 15-18.020 of the City Municipal Code, as it has been over the past sixty years. These uses, as previously governed by the CC&Rs and Architectural Board, include medical, dental, and legal offices, and similar professional offices. This aggregation of compatible uses creates a quiet environment for peaceful enjoyment of service providers and their clients. The proposed Palm

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Villas Residential Care Facility is not a Permitted Use in the PA Zone and is incompatible with the peaceful environment of the Professional Village neighborhood. A Residential Care Facility for the Elderly would certainly cause a significant increase in noise from emergency response vehicles, as well as delivery trucks. This poses a noise nuisance from sirens approaching or leaving, and loud beeping from trucks backing up.

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cont.

Full-time services of a nursing home will require regular deliveries. Delivery trucks could idle diesel engines while in the loading areas, or while circling around the private driveways and parking areas of the Professional Village. In addition to the potential noise disturbance, this would also produce toxic emissions from engine exhaust. This is incompatible with the quiet, clean and health-focused environment of the existing uses in the neighborhood.

Biological and Cultural Resources

Saratoga Creek borders the project's western boundary. The creek corridor is vegetated with dense riparian vegetation and provides important habitat and a migration corridor for wildlife. As such, the biological resources of the creek are protected under various state and local jurisdictions including, but not limited to, the California Dept. of Fish and Wildlife and the Santa Clara Water District. It appears from the project site plan that creek setbacks from top-of-bank and the edge of the riparian vegetation are inadequate. The EIR therefore must analyze, in coordination with responsible resource agencies, the appropriate setbacks for habitat protection purposes, as well as prescribe appropriate mitigation measures to protect sensitive biological resources. It is important to note also that the creek channel adjacent to the project site appears to have been manipulated over time by the placement of fill material for bank stabilization. In fact, these materials may have altered the location of the historic creek top-of-bank and should be evaluated. If it is found that the creek channel has been modified from its otherwise natural state, appropriate restoration must also be considered.

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The cultural heritage of this area should also be evaluated. The immediate area was part of an historic prune orchard operated by the Seagraves family and formerly owned by the Cox family. The corridor around Saratoga Creek should be evaluated in this context as well.

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Recreation

Related to Saratoga Creek and its riparian corridor, the Saratoga Creek Trail is identified in both the City's Open Space and Conservation Element and the Circulation and Scenic Highways Element as a proposed trail to be located along the eastern bank of the creek immediately adjacent to the project site. This proposed trail would connect Brookglen Park to Congress Springs Park and is an important link across the Highway 85 barrier, in the City's trail

1-16

Nicole Johnson
March 11, 2019
Page 7

and park network. The EIR must include a thorough discussion of implementing this segment of Saratoga Creek Trail through dedication of a trail easement as required by City policy. Appropriate setbacks, as prescribed for habitat protection, must be identified to ensure the trail can be implemented consistent with the various policies contained in the Open Space and Conservation Element, and other relevant design guidelines. If the current proposed building location or design is found incompatible to achieve these standards, the EIR must identify alternatives that would facilitate completion of this trail segment, including increased setbacks from the creek, a reduced building footprint, and changes in building height and design.

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cont.

Thank you again for the opportunity to provide input on the preparation of the EIR. We hope that these comments are helpful and that the issues we have identified are given serious attention and properly addressed. We look forward to reviewing the Draft EIR and will provide additional comments at that time.

Very truly yours,



Todd A. Amspoker
for PRICE, POSTEL & PARMA LLP

cc: Daryl Abrams
(daryljabrams@gmail.com)

Debbie Pedro
(dpedro@saratoga.ca.us)

Steve Taffolla

From: Nicole Johnson <njohnson@saratoga.ca.us>
Sent: Wednesday, February 27, 2019 5:18 AM
To: Darcey Rosenblatt; Kara Laurenson-Wright; Christine Fukasawa
Cc: Debbie Pedro; Carmen J. Borg; William Parkin
Subject: Fwd: Comments on the Palm Villas Project

FYI

Sent via the Samsung Galaxy S8+, an AT&T 5G Evolution smartphone

----- Original message -----

From: Jun Cao <jun.cao.lac@gmail.com>
Date: 2/26/19 10:00 PM (GMT-08:00)
To: Nicole Johnson <njohnson@saratoga.ca.us>
Cc: Jun Cao <juncao.lac@gmail.com>
Subject: Comments on the Palm Villas Project

Dear Nicole:

We represent a medical office located at 18988 Cox Ave Ste C, in the Professional Village of Saratoga. We were at the meeting earlier this evening about the Palm Villas Project. Please find our concerns for this project listed below:

1. Zoning change: We oppose the Palm Villas development proposal for a P-C zoning change and planning exceptions. The project offers no community facilities that are open to the public and lacks merit for a zoning change to P-C. The development conflicts with design standards of the P-A Zone and is not compatible with the Professional Village of Saratoga. A zoning change to P-C may be a method to gain numerous exceptions from City design standards. However, the proposal offers no community facilities, and therefore does not meet the City's stated purpose of the P-C zone. We object to a zoning change to allow a developer to profit from oversized buildings with insufficient parking.

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2. Parking: This is one of our major concerns. Currently, our little parking lot is always full on working days. The proposed project only provides 43 parking spaces for a potential development of over 25K S.F., with about 80 residents, and dozens of medical and other support staff (not to mention visitors and emergency vehicles!). The development plan is promoting an inadequate parking scheme based on blatantly unrealistic assumptions about the project's parking demand. If the project were to follow parking standards that have consistently been applied within the Professional Village neighborhood, 120 parking spaces would be required. The project is short by 86 parking spaces, forcing spillover to park in our lots. As a result, our patients will have a difficult time finding parking spaces when they come to our office, which will have a strong negative impact on our practice! In addition, there is no off-street loading spaces provided, violating design standards. Emergency vehicle egress is not provided for fire trucks and ambulances. No turnaround is provided at the dead-end of Saratoga Creek Drive.

2-2

3. The creek: The proposed large buildings do not meet required setbacks of the creek and eliminate landscaping buffers.

2-3

4. Noise: A high frequency of emergency vehicles visits are expected at the proposed site, which will greatly increase noise in the neighborhood.

2-4

Overall speaking, the proposed project is too big, too noisy, and requires way too many parking spots than what are available on their own parking lots, forcing spillover to our parking lots or parking in the street! There will also be many visitors wondering around looking for the facility or its underground parking, which creates potential hazard given the current driveway and parking design of the Professional Village of Saratoga. Hence, we strongly oppose this project, and urge the City to fully consider all the potential hazards that this project will bring to our neighborhood.

Many thanks!

Jun Cao, L.Ac.
Dr. Weiyin Hong
Active Acupuncture Partners Inc.
408-621-5332

Steve Taffolla

From: Nicole Johnson <njohnson@saratoga.ca.us>
Sent: Monday, March 11, 2019 8:06 AM
To: Darcey Rosenblatt; Christine Fukasawa; Kara Laurenson-Wright
Cc: Debbie Pedro; Carmen J. Borg; William Parkin
Subject: FW: comment on the Palm Villas project

FYI

From: Henry Chang <henrychangdds@aim.com>
Sent: Sunday, March 10, 2019 10:14 PM
To: Nicole Johnson <njohnson@saratoga.ca.us>
Subject: comment on the Palm Villas project

Dear Ms. Johnson,

I have been a tenant in a property located at 12948 Village Dr. for over 15 years. Having attended the NOP meeting on the 26th, I'd like to also echo my great concerns about the cumulative impact that this project will eventually bring upon the traffic in the community.

It is my observation, also shared by one of my neighbors, that during the busiest times of year the readily increasing traffic often causes some difficulty on accessibility from the main street to the campus and on parking availability as well. Realizing the size and volume of the project, I cannot help but believe that this will further strain the traffic of the area.

Sincerely,
Henry H. Chang

3-1

Steve Taffolla

From: Nicole Johnson <njohnson@saratoga.ca.us>
Sent: Monday, March 11, 2019 10:15 AM
To: Christine Fukasawa; Darcey Rosenblatt; Kara Laurenson-Wright; Franziska Church
Cc: Debbie Pedro; Carmen J. Borg; William Parkin
Subject: FW: Palm Villas Project - Follow up comments from 2/26 Meeting
Attachments: View from site toward Green home.jpg; Green Family home location - 12766 Saratoga Creek Dr.0001.pdf

From: Kelly Green <kpgreen2014@gmail.com>
Sent: Monday, March 11, 2019 10:13 AM
To: Nicole Johnson <njohnson@saratoga.ca.us>
Cc: Mike Green <51giantsfan@gmail.com>; donnajgreen52@gmail.com
Subject: Palm Villas Project - Follow up comments from 2/26 Meeting

TO: Nicole Johnson
 FROM: Green Family
 ADDRESS: 12766 Saratoga Creek Dr.

As a follow up to my attendance and brief comments at the Feb. 26, 2019 EIR meeting, the scoping comments below are a summary of the Green Family, original homeowners since 1956, environmental impact concerns regarding the Palm Villas project. The attached map provided at the meeting shows our proximity (2nd house on the right from Cox Ave. on Saratoga Creek Dr.) to the proposed facility.

1) Extension & use of Saratoga Creek Dr. as the designated entrance and exit to the proposed facility as well as the existing office buildings

- **Add increased traffic congestion to already dangerous conditions at intersection of Cox Ave & Saratoga Creek Dr.** Cox Ave. traffic has dramatically increased since the completion of the Saratoga Ave. on/off ramp to 85 North/South and is used as a cut-through from Saratoga-Sunnyvale Rd. to Saratoga Ave. and Quito Rd. to avoid 85 commute traffic. When turning left from Cox Ave. onto Saratoga Creek Dr., cars behind me heading toward Saratoga Ave. do not stop while I wait for oncoming traffic to clear. Instead, cars barely slow down and instead pass to the right and continue down Cox to Saratoga Ave. That same issue would occur with traffic not stopping behind a car turning left onto the proposed extended portion of Saratoga Creek Dr., and instead going around and passing on the right. Turning left & right from Saratoga Creek Dr. onto Cox Ave. is already dangerous due to high traffic volume and speed during much of the day and especially commute hours.

4-1

2) Lack of parking to accommodate employee, Doctor, emergency vehicles, patient and visitors for 79 bed facility.

- **38 spaces is not enough to serve a full service 24/7 facility with 79 beds as defined in the project description.** This will not only create traffic overflow to the existing building complex

4-2

parking lots but also force people to street park on Cox Ave. & across Cox to our existing Saratoga Creek Dr neighborhood. Street parking obscures our sight when pulling out of our driveway due to a slight road curve creating an extremely dangerous situation since we're unable to see cars turning onto Saratoga Creek Dr. from Cox Ave. In addition, there is no marked crossing designated to accommodate pedestrians and they would need to navigate crossing a heavily traveled, 35 MPH Cox Ave. to get to the facility. If stop signs or signals are considered to mitigate driver and pedestrian safety, this would hinder traffic flow and create a back up onto Saratoga Ave. and other streets especially during commute hours. This also might require considering a neighborhood permit parking program to prevent facility employee and visitor parking on Saratoga Creek Dr.

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cont

3) Noise & Lighting - 24/7 use facility and construction. The existing building complex housed at the Cox Ave. site does not operate 24/7 and generates minimal noise and lighting issues on off hours (M-F after 6p and weekend). The proposed facility is a 24 hour operation which will add noise and lighting issues that can be seen and heard from our home. Examples of this include emergency vehicle noise (sirens, back up alert), , building heating/cooling units, delivery and garbage trucks, employee traffic, parking lot (pole-mounted lighting vs less intrusive lighting forms) and surrounding area lighting installed for safety, etc. The reason we continue to live in the Saratoga Woods neighborhood is the rural feel-no streetlights, sidewalks & the peaceful sounds of crickets & frogs. A 24/7 operation will severely impact this. Lighting must be adequate for facility safety and to deter neighborhood crime, but would create more urban-like conditions. The facility design should fit in with the existing commercial buildings on the neighboring properties with a one-story structure preferred. A timeline has not yet been prepared but noise during the construction phase is also a major concern. **Although we understand the need for age related care facilities, we are opposed to a 24/7 operation at this site.**

4-3

4) Open-space & environmental concerns. According to the current plan, trees would need to be cleared and we are in favor of limiting landscape changes to ensure the open space and and natural beauty of this area is preserved. Creek maintenance, water conservation and protection, preserving the access trail, and environmental concerns that come with construction and building maintenance are all major issues for our family. Also, medical waste and disposal of bio-hazardous materials are a major concern.

4-4

Please keep me on your email list & provide project updates as they become available. We'll look for the EIR to be released during the June 2019 timeframe.

Sincerely,

Kelly Green on behalf of the Green Family
12766 Saratoga Creek Dr.
kpgreen2014@gmail.com
408.507.0404

Notice of Preparation of Draft Environmental Impact Report for the Palm Villas Saratoga Project (APN's 389-06-020 and 389-06-021)

March 10, 2019

Nicole Johnson, Planner
City of Saratoga
Community Development Dept.
13777 Fruitvale Avenue
Saratoga, CA 95070

Dear Ms. Johnson:

I would like to voice my concern in regards to the Environmental Impact Report (EIR) for the Palm Villas Residential Care Facility for the Elderly. I have a medical/dental practice for over 13 years in the Village Drive area.

I feel that this project will definitely impact the flow of traffic and parking in this area due to this project. All the existing buildings in this area are one story and this project will have two 2-story buildings that will create traffic problem. There will be congestion due to the number of vehicles going in and out of this Facility. The existing parking spaces are reserved for our patients and im concern that this new project will affect these parking spaces due to the new demand and overflow from the facility. Currently, there is just the right amount of parking spaces for my patients and I do not want people from other parking areas to take our spaces due to the lack of parking created by the facility.

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In addition, I believe the project will change the existing serene environment that is in our area right now. Due to the emergency vehicle, delivery trucks, and other motorists created by the demand of this project, this will create noise in this area and disrupt our practices.

6-2

This facility is just too large for the space that is proposed. Due to this, many problems will be developed and im trying to help avoid this. Thank you for listening to my concerns.

Sincerely,

Rosette D. Nguyen DDS/MPH

March 11, 2019

Nicole Johnson, Planner
City of Saratoga
Community Development Dept.
13777 Fruitvale Avenue
Saratoga, CA 95070

RE: Draft Environmental Impact Report for the Palm Villas Saratoga Project (APN's 389-06-020 and 389-06-021)

Dear Ms. Johnson:

I appreciate the opportunity to offer my comments about the subject proposed development project. My wife and I are Saratoga residents and our home, located at 19172 De Havilland Drive, is located just across the Saratoga Creek, immediately opposite the proposed development of the Palm Villas dementia /Alzheimer "in-patient" residential care facility project. Our property has been in my wife's family for over 40 years, so we are longtime residents with a vested interest in maintaining the quality of life in Saratoga. As you must know, the land across the creek from our neighborhood is the largest plot of undeveloped land remaining in Saratoga, and I believe the owners of those properties have a right to develop the land, even though any development that takes place will undoubtedly have some impact on us and our neighbors. Therefore, I am likely to get behind a project that meets the requirements of the Saratoga zoning and building code provided that it is well conceived and thoughtfully designed in a way that is in tune with the surrounding property uses and neighborhood values in general.

As a former Saratoga Planning Commissioner and a building design professional that has been involved in the design and construction industry for over 35 years, I am well aware of the development and EIR process. Based on my experience, I feel strongly that the Palm Villas project, as currently proposed, does not meet many code requirements, does not pass the litmus test of being well conceived and thoughtfully design, and frankly I am surprised that the project has made it this far through the Planning Department without more significant adjustments to the design prior to beginning the EIR process.

I have the following serious concerns about the Palm Villas project:

- The project does not fit the uses defined by the PA zoning of the property,
- The project does not adequately address the riparian setbacks and environmental impacts
The project massing does not match any buildings in the neighborhood
- The project does not address the impact of noise, traffic, parking
- I am very concerned that the two proposed buildings are to be operated as a single facility while being bisected by a public street.

In addition to my concerns about the project itself, I am also concerned about the way the project appears to have progressed through the early planning process with very little neighborhood visibility/transparency. This includes:

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thru
7-5

1. This first notice about the EIR scoping meeting asking for neighborhood input was received in the mail with insufficient notice, less than the typical 15 days required for public notices concerning development projects
2. Notice was provided by mail, but absolutely no information is available on the city web site about the project or through any other publication that I could readily find on-line. A search on the web about the project comes up with no notices on any publicly available publications as required by code. If notice was published, I would appreciate knowing in what publication it was submitted. I hope it was not noticed in some obscure publication with intent to minimize the public discourse.
3. The notice and stated intent of the public scoping meeting was to provide neighboring property owners the opportunity to ask questions and voice concerns about the project. However, how is that even possible when no project drawings, diagrams, or any other information has been made available and our ability to view drawings at the city has never been communicated to neighbors.
4. It seems that email addresses for Saratoga Planning Commissioners are no longer available on the city web site, as they were during my tenure as a Planning Commissioner, to allow city residents to email commissioners with their concerns about projects. Again, this appears to limit the public's access to commissioners and seems intended to reduce public discourse and input.
5. I also learned that Planning Commissioners were not even notified of this scoping meeting to allow them to attend and hear the neighborhood concerns.

7-6

I do understand the need to be cautious in divulging too much information too soon on development projects but asking for neighborhood comments without providing any documentation is inane. We are in the information age in the heart of Silicon Valley, and so I hope that the City Council, City Manager, and Planning Department will reevaluate the current process and consider making more information available on line for this and all other non-single-family residential projects.

I believe that an EIR requires that drawings be made available for public review and scrutiny and hope that drawings will be made available soon to allow neighbors to really see the scale and type of project being proposed.

The following comments are issues that I believe should be thoroughly vetted and addressed in the EIR.

Permitted Land Use

Consistent with the current uses in the professional village, section 15-18.020 of the Saratoga zoning code, the current PA zone allows for "professional, administrative and medical offices" (i.e. "out-patient" offices) but does not specify "in-patient" medical care facilities. Since the proposed care facility is not an approved use, I believe the only way for this project to be approved is for the applicant to apply for a "Conditional Use Permit." However, as a residential

7-7

neighbor, I am extremely concerned that the approval of this type of project will set a dangerous precedent for this undeveloped 10-acre site and the surrounding properties. Such approval could lead to a development that would have a devastating impact on the quiet residential neighborhoods surrounding these properties. I believe this would open the door for further in-patient care facilities. What is next? Could this mean that Kaiser or Stanford could build other in-patient hospital facilities? This change of use is wholly inconsistent with the historic and current vision for this largest remaining undeveloped acreage remaining in Saratoga.

7-7
cont.

The EIR should thoroughly review the proposed use for compatibility with the surrounding neighborhoods.

Overly Aggressive Development and Excessive Use

The proposed Palm Villas project, which proposes 79 beds for nursing-home patients on two relatively small lots, seems an excessively aggressive development project surrounded by otherwise quiet residential and office building uses. Given the tight size and space this development does not seem to be interested in high quality care for their patients/residents but rather seems intent on maximizing profits for the owners and therefore is the type of development that I cannot support in Saratoga. Having been through my own mother's dementia care before her passing last year, I know that these patients need public space within the facility for group activities and outdoor spaces to provide a happy and stimulating environment for quality care. The proposed facility appears to have no room, either indoors or outdoors, for these amenities. Parking is insufficient for staffing the facilities, much less for resident visitors. Furthermore, site area and access to address emergency response by City Fire, Sheriff and private ambulance appears largely unaddressed.

7-8

The EIR should consider the need for a developer to get a "reasonable" return on their investment balanced with the need for a thoughtful and well-conceived plan suited to the proposed building site and neighborhood environment. However, I estimate that even with current high construction costs, the high price of care for this type of elderly care would provide a full return on the construction investment in an unusually short period of time and the current project scope appears excessive and not in balance with the surrounding neighborhood.

Facility divided by public street

The project is proposed to be developed on two "adjacent lots" bisected by a Saratoga Creek Drive which is a public street. While this street currently only extends a short distance off Cox Avenue, I believe the intent is to eventually extend this road to provide egress to the adjacent 10-acre parcel as part of future development. However, "adjacent lots" are defined in the city code as contiguous to each other and sharing a common property line, therefore, the two parcels cannot be treated as "adjacent".

7-9

The two buildings are intended to operate as a single facility even though separated by this public street. This means that there will be trips by nurses, physicians, food services, housekeeping, facility maintenance, and other staff crossing the public street day and night to provide care, medicine, medical supplies, laundry, food, housekeeping and other services to

residents/patients. In my view, services should be self-contained in each building to avoid the transportation of supplies and persons across a public road. This view is also supported by the City Code which does not allow shared parking or loading areas across a public roadway, as this would result in significant traffic conflicts between vehicles and pedestrians.

7-9
cont.

The EIR should discuss the inherent design-related traffic impacts and the noncompliance with zoning requirements for parking and loading areas. The EIR must also discuss the limited functionality and public safety concerns related to operating a residential care facility that is bisected by a public roadway. Short of providing two self-sufficient buildings with separate service loops it is not clear to me how this issue can be mitigated.

Project Size, Building Massing, and Site Development

The surrounding neighborhood and the existing Saratoga Professional Village have a consistent single story look and scale that is in keeping with the residential neighborhood overall. There are no other two-story buildings in the immediate neighborhood. The proposed exterior facade of the new buildings is much taller/larger and inconsistent in massing compared with all surrounding structures. The size, height and mass of the building overshadow the creek and neighboring single-story homes and office buildings. Additionally, the two proposed buildings appear to max out these two small parcels in an attempt to maximize the bed count and the owner's profits at the expense of the surrounding neighbors and community. All other developments over the years have maintained the required setbacks from the street and creek. Given the small lot size and available building site area as well as the single-story office buildings and residential neighborhoods that surround the two parcels, it seems like a single-story building would be more fitting than a two-story building adjacent to the creek. The EIR should provide an analysis of the compatibility of the proposed project with the surrounding existing properties and buildings.

7-10

Beyond the scale of the building, the inadequate building setbacks appear to have very little room remaining for screening and landscape relative to the creek and neighboring residential and business properties. The larger massing of these two-story buildings and the way that they are configured with long stretches of sloping roof are likely to overshadow and dwarf the scale of neighboring buildings.

Parking

The project includes insufficient parking for a care facility with 79 beds and only 38 parking spaces for all of the staff (including care takers, housekeeping, food services, nursing, doctors, etc.), deliveries (e.g. pharmaceuticals, medical equipment, food and other food service supplies, laundry, etc.), and patient visitors. While the parking in the professional village is not a direct concern of residential neighbors, I understand it is a concern of other businesses, and I am concerned that overflow parking might lead to parking on Cox Avenue and on the public street between the two buildings that will presumably be extended with future development of the neighboring land, which could in turn exacerbate more traffic and safety concerns on Cox Avenue.

7-11

Traffic and Circulation

An earlier version of the drawings for the project I reviewed earlier showed two vehicle loading ramps, one for each of the two buildings. This would require all delivery and emergency vehicles to back up using Saratoga Creek Drive, the public street between the buildings, which would lead to the backup warning beeping coming from the facility day and night (as mentioned under the “Noise” section to follow). I understand that the current plans now include a single loading/unloading loop for building 1, which may reduce the backup warning beeping. However, no loading option for building 2 has been provided even though the buildings are separated by a public road. Is it the intention that food, laundry, pharmaceutical, medical equipment, and other deliveries be dropped off at building 1 only to then be moved across a public road? Will patients and facility staff also be asked to cross this road multiple times each day? This would seem not only a major safety concern, but also an infringement on the rights of other residents and businesses that use this public road. Is it also the intension that when an emergency ambulance is required at building 2, a patient in critical need of medical attention in building 1 must be transported by stretcher across the public road? This would seem a significant safety hazard for all persons involved and the larger public that uses this road. This road currently only provides access to the professional village, but in the future, I assume it will also serve as egress to other buildings developed on the adjacent land owned by the Abrams family. This would lead to more significant safety, traffic and general logistical challenges for all who will use this public street.

7-12

The EIR should discuss and thoroughly consider these and other issues of egress, traffic, circulation, parking and related safety and nuisance issues. Additionally, I would expect that a traffic, parking and circulation study will be provided for the project and would expect that this is necessary before preparation of the EIR.

Noise

Saratoga Professional Village is occupied only by permitted uses listed in section 15-18.020 of the City Municipal Code, which include professional, administrative and medical offices. This grouping of compatible uses creates a peaceful neighborhood. The proposed in-patient care facility is incompatible with the environment of not only the professional village neighborhood but also, and especially with the surrounding residential neighborhood. The proposed Dementia/Alzheimer care facility would certainly require frequent trips by emergency vehicles and delivery trucks. The noise of emergency sirens, delivery trucks, and the back-up beeping of all vehicles will have a very negative impact our currently quiet residential neighborhood and professional village day and night.

7-13

A very small elderly care facility with I assume fewer than 6 residents that was previously located in a small residential property almost opposite the currently proposed project on the other side of Cox Avenue several years ago, did include frequent trips by emergency responders which created a noise problem for nearby neighbors, and sirens could even be heard from our home that is a block and a half from that residence. With a 79-bed in-patient facility it is to be expected that deliveries and emergency responders will be coming in and out of the facilities at all hours of the day and night. How can the siren noise be mitigated? While there may be requirements to

turn off sirens within a certain distance of the facility, since ambulatory care services are generally run by independent providers, realistically such regulations will be impossible to enforce. Furthermore, the number of vehicles entering and leaving the site will certainly create a traffic problem on Cox Avenue which is currently a secondary two-lane city road, not to mention Saratoga Creek Drive.

7-13
cont.

Saratoga Creek/Riparian Corridor

Based on my review of an earlier set of drawings it appears that the development does not meet the necessary creek setback specified by the city building code. It also appears that debris has been dumped at the top of the bank in previous years which makes it difficult to properly define the top of bank from which setbacks can be measured, but it is clear that the proposed project does not include a sufficient riparian corridor along the top of Saratoga Creek bank.

It is also my understanding, based on my own project experience, that the State Department of Fish and Game requires a minimum 50 feet set back within which no development or land use of any type can occur. I am not certain what the proposed set back currently is, but my earlier review of older drawings appeared to show insufficient setbacks both based on this criterium and the city zoning/building code.

Furthermore, I am uncertain how these set back requirements would be accounted for in a future proposed Saratoga Creek trail. Would this trail be within the setbacks or would the trail also need to be outside of the setback as defined by city code, Fish and Game and the Santa Clara Water district standards. The project, as currently designed, does not allow adequate space for the proposed Saratoga Creek trail allowing for these setbacks. Adequate building setbacks should be required from the edge of the riparian corridor to accommodate a trail surrounded by natural landscape.

7-14

The natural vegetation along the top of the creek bank also appears to have been cleared over many years, possibly in anticipation of a future building project. This is apparent when comparing the natural vegetation along the creek bank by the 10-acre Abrams parcel with the Palm Villas building site. What is the width of the natural riparian corridor that should be preserved along Saratoga Creek?

During the scoping meeting staff and the firm hired to prepare the EIR stated that a specialist would be engaged to determine how to define the nature creek flow and the center line and top of bank. I would expect that as part of the EIR, the Department of Fish and Game, the Water District or other expert studies should also be required to identify the natural habitat, to protect the natural environment/riparian corridor, and to provide recommendations for protection and restoration of this important riparian corridor?

If the current proposed building location or design is found incompatible to achieve these standards, the EIR must identify alternatives that would facilitate completion of this trail segment, including increased setbacks from the creek, a reduced building footprint, and changes in building height and design.

Conclusion

I hope that these comments and concerns are fully addressed as part of the EIR preparation. I also hope that the city will seriously consider my concerns regarding the communication of this project and consider adjustments in the notification process to improve the city's transparency to keep the surrounding neighborhoods informed as this and other future Saratoga projects move forward.

Sincerely,

A handwritten signature in black ink that reads "Doug Robertson". The letters are cursive and somewhat slanted to the right.

Doug Robertson
19172 De Havilland Drive
650-207-8488

Steve Taffolla

From: Nicole Johnson <njohnson@saratoga.ca.us>
Sent: Friday, March 1, 2019 7:31 AM
To: Darcey Rosenblatt; Christine Fukasawa; Kara Laurenson-Wright; Franziska Church
Cc: Debbie Pedro; William Parkin; Carmen J. Borg
Subject: FW: Palm Villas: Comments

Here is another.

From: Sarais4all@yahoo.com <sarais4all@yahoo.com>
Sent: Thursday, February 28, 2019 8:11 PM
To: Nicole Johnson <njohnson@saratoga.ca.us>
Subject: Palm Villas: Comments

Hi Nicole,

1. Please add my email contact, sarais4all@yahoo.com to your email group list for the "Palm Villas" project.
2. As most of the residents expressed at the 2/26 meeting, please upload/post all the project information/update to the City of Saratoga website, so we can easily access to get updates. 8-1
3. We're not opposing to the senior housing, but our key concerns are:
 - The LOCATION: is right next to the residential neighborhood (car traffic by visitors of patient families, frequent to possibly 24x7 annoy noise produced by Siren of ambulance, etc) - we see it as a MAJOR threat to public health of residents of nearby houses (sleeping, noise disturbance, nerve breaking nightmare) 8-2
 - Two-story Structure of the proposed COMMERCIAL buildings: NOT compatible with the 1-story residential building in the neighborhood. Plus these two taller commercial buildings are right next to the residential houses so we see them as major threat to the quality of residential environment. 8-3
4. I'd propose to post the concerns/issues of Palm Villas raised by the residents to the City Website under the folder of this project. 8-4

Can you reply to confirm you receive my email and add my email address to your emailing list for Palm Villas?
Thank you
-Sarah

RECEIVED

MAR 05 2019

CITY OF SARATOGA



City of Saratoga
Public Scoping Meeting
Palm Villas Project

Written Comment Form
(please print)
Tuesday February 26, 2018

Name*: M. LEE STONE, M.D.
Affiliation (if any)*:
Email*: lee@mlleestonefineprints.com

I am all for housing for patients with Alzheimer's problems however this is NOT the project.

I am against this entire project and the city should abandon ~~the~~ it!

I agree with all the persons who spoke against this on the 26th of Feb. They spoke to everything wrong about Palm Villas.

Why didn't we receive a notice prior to this night? I had to hear from a neighbor poor communication!

9-1

* Please print. Your name and comments become public information and may be released to interested parties if requested.

Please either deposit this sheet at the sign-in table before you leave today, or fold, stamp, and mail. Insert additional sheets if needed. Comments can also be emailed. Comments due by March 11, 2019.

Mailing address: Palm Villas Project
c/o Nicole Johnson
13777
Saratoga
M. Lee Stone, M.D.
19212 Shubert Dr.
Saratoga, CA 95070
Email: Nico Johnson
njoh

Public Comment Period: Febr

Commen

Palm Villas Proj
c/o Nicole Johnson
13777 Fruitral

Steve Taffolla

From: Nicole Johnson <njohnson@saratoga.ca.us>
Sent: Tuesday, March 12, 2019 10:40 AM
To: Darcey Rosenblatt; Christine Fukasawa; Franziska Church; Kara Laurenson-Wright
Cc: Debbie Pedro; William Parkin; Carmen J. Borg
Subject: FW: Concerns about the Palm Villa Development.
Attachments: EIR Scoping Letter 20190311 final.pdf

-----Original Message-----

From: m lee stone <lee@mleestonefineprints.com>
Sent: Tuesday, March 12, 2019 10:25 AM
To: Nicole Johnson <njohnson@saratoga.ca.us>
Subject: Concerns about the Palm Villa Development.

Dear Ms. Johnson;

I fully agree with the letter sent to you about this terrible development. It is a disaster and the city should not spend one cent in going ahead with evaluations.

If you haven't read this letter I am attaching it again. It describes all the problems in great detail..

Thank you, Lee Stone

10-1

Steve Taffolla

From: Nicole Johnson <njohnson@saratoga.ca.us>
Sent: Monday, March 11, 2019 9:08 AM
To: Christine Fukasawa; Darcey Rosenblatt; Kara Laurenson-Wright
Cc: Carmen J. Borg; Debbie Pedro; William Parkin
Subject: FW: EIR for Palm Villa Saratoga

FYI

From: Rosa D. Wynn, D.M.D. <smile@rdwdentistry.com>
Sent: Monday, March 11, 2019 9:07 AM
To: Nicole Johnson <njohnson@saratoga.ca.us>
Subject: EIR for Palm Villa Saratoga

March 11, 2019

Dear Ms. Johnson:

Thank you for giving me the opportunity to express for my concerns about the Palm Villa project.

I am a dentist practicing in one of the complexes, which will be affected by this build-out. My main concerns would be the overflow of parking due to lack of planned spaces. The traffic increase due to visitors, employees for this facility, as it is now already difficult at times to make a left out of Village in the evenings.

11-1

The real need to care for these elderly patients will include emergency ambulatory care which will cause a constant noise factor for the now very quaint area. Being many of patients are also from this area and enjoy the ease of which they can come, park and have their dental care without a lot of hassles.

11-2

My concern of the hassle of traffic, noise, parking can lead to a decrease of patients into the businesses in the surrounding area, unfortunately including mine.

I am very appreciative of your time in reading my concerns.

Thank you,
Rosa D. Wynn, D.M.D.

NATIVE AMERICAN HERITAGE COMMISSION
Cultural and Environmental Department

1550 Harbor Blvd., Suite 100
West Sacramento, CA 95691 Phone (916) 373-3710
Email: nahc@nahc.ca.gov
Website: <http://www.nahc.ca.gov>
Twitter: @CA_NAHC



RECEIVED

MAR 11 2019

CITY OF SARATOGA

March 6, 2019

Nicole Johnson
City of Saratoga
13777 Fruitvale Avenue
Saratoga, CA 95070

RE: SCH# 2019029040 Palm Villas Saratoga, Santa Clara County

Dear Ms. Johnson:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

12-1

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
 - a. A brief description of the project.
 - b. The lead agency contact information.
 - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
 - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subs. (d) and (e) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).
 - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
 - a. Alternatives to the project.
 - b. Recommended mitigation measures.
 - c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).
4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:
 - a. Type of environmental review necessary.
 - b. Significance of the tribal cultural resources.
 - c. Significance of the project's impacts on tribal cultural resources.
 - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).
6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
 - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

12-1
cont.

7. Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs:
 - a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).

8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).

9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).

10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:
 - a. Avoidance and preservation of the resources in place, including, but not limited to:
 - i. Planning and construction to avoid the resources and protect the cultural and natural context.
 - ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - i. Protecting the cultural character and integrity of the resource.
 - ii. Protecting the traditional use of the resource.
 - iii. Protecting the confidentiality of the resource.
 - c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - d. Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - e. Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).

11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
 - a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

12-1
cont.

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf

Some of SB 18's provisions include:

1. **Tribal Consultation**: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation**. There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality**: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation**: Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>

12-1
cont.

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

12-1
cont.

If you have any questions or need additional information, please contact me at my email
address: Gayle.Totton@nahc.ca.gov

Sincerely,



for
Gayle Totton
Associate Governmental Program Analyst

cc: State Clearinghouse

File: 16648
Saratoga Creek

March 11, 2019

Ms. Nicole Johnson
Planner II
Community Development Department
City of Saratoga
13777 Fruitvale Avenue
Saratoga, CA 95070

Subject: Notice of Preparation of Draft Environmental Report – Palm Villas Saratoga

Dear Ms. Johnson:

The Santa Clara Valley Water District (Valley Water) staff has reviewed the Notice of Preparation (NOP) of Draft Environmental Report (DEIR) for the Palm Villas Saratoga project, received by Valley Water on February 12, 2019.

Saratoga Creek runs along the westerly side of the project site. Valley Water owns property adjacent to the subject site along Saratoga Creek and has an ingress/egress easement through the site along an existing fire access road located approximately where Saratoga Creek Drive will be extended onto the site. In addition to the ingress/egress easement the recorded parcel map for this site shows an 18 foot easement to be dedicated to Valley Water; however, we have not found any records that Valley Water was informed this map was recorded so that the easement could be accepted. In 2016 the District requested this easement to be recorded as well as dedication of the area over the creek itself. A draft plat and description was submitted for review and comments were provided to the owner's agent. It is now our understanding that in order for this development to move forward as desired by the owner, no easements, including the one on the parcel map, are to be provided to Valley Water since Valley Water easement areas are deducted from the usable lot acreage and would not make this particular project feasible. As noted previously, Valley Water is still interested in a flood protection easement over the creek and is in the processing of setting up a meeting to discuss if there is away to obtain the easement while still allowing the project to move forward.

Valley Water has the following comments to be taken into consideration when developing the DEIR for this project:



1. The proposed project should follow with the Guidelines and Standards for Land Use Near Streams (Guidelines and Standards) to ensure the site is developed in a manner that is compatible with the natural creek environment. In particular, appropriate setbacks to the riparian corridor needs to be provided as well as a slope stability setback to ensure reasonable natural stream movement and erosion can occur without harming the developed areas. The DEIR should discuss how the project follows the Guidelines and Standards, which were adopted by the City of Saratoga under Resolution 07-028. 13-1
2. For areas along the creek, landscaping of the site should follow Design Guide 1 of the Guidelines and Standards which encourages protection of existing riparian vegetation and provides for tree protection zones.

If restoration/enhancement of the riparian corridor is proposed as part of the project, this type of landscaping should follow Design Guide 2. Plantings following Design Guide 2 require the use of native plantings grown from propagules collected from the Saratoga Creek watershed to protect the local riparian vegetation ecotypes, which typically requires a year lead time with a native plant nursery. 13-2

In areas where the landscape objective is generally geared toward aesthetics, Design Guide 3 should be followed. Design Guide 3 provides guidance in using non-invasive, drought tolerant, non-local California natives which will protect the native riparian vegetation while allowing for the ability to obtain plants from a conventional nursery.

3. Drainage from the site needs to be directed to the existing public storm drain system and not overbank to the creek as this can cause bank erosion. 13-3
4. Based on FEMA's Flood Insurance Rate Maps (FIRM) Panel 06085C0217H, effective May 18, 2009, the majority of the site is located in a shaded Zone X, areas of a 0.2% annual chance flood. However, the areas of the site located along the creek are designated in Special Flood Hazard Zone A, with no base flood elevations determined. 13-4

Please forward a copy of the DEIR to Valley Water when available for public review. Reference Valley Water File Number 16648 on further correspondence regarding this project. If you have any questions or need further information, you can reach me at chaggerty@valleywater.org or at (408) 630-2322.

Sincerely,



Colleen Haggerty, P.E.
Associate Civil Engineer
Community Projects Review Unit

cc: U. Chatwani, C. Haggerty, File