



PLANNING COMMISSION MINUTES

City Council Chambers
200 Old Bernal Avenue, Pleasanton, CA 94566

APPROVED

Wednesday, June 14, 2006

CALL TO ORDER

The Planning Commission meeting of June 14, 2006, was called to order at 7:04 p.m. by Chairperson Arkin.

1. ROLL CALL

Staff Members Present: Donna Decker, Principal Planner; Julie Harryman, Assistant City Attorney; Wes Jost, Development Services Manager; Robin Giffin, Associate Planner; Natalie Amos, Assistant Planner; and Cory Emberson, Recording Secretary.

Commissioners Present: Commissioners Brian Arkin, Phil Blank, Anne Fox, Greg O'Connor, Arne Olson, and Jennifer Pearce.

Commissioners Absent: None.

2. APPROVAL OF MINUTES

a. May 10, 2006.

Chairperson Arkin inquired whether the transcript reflecting the Commission's straw votes would be admitted into the minutes. Ms. Decker noted that the transcript would be integrated into the official record.

The minutes were approved as corrected.

b. May 24, 2006.

Commissioner Pearce advised that for clarity, the third sentence of paragraph 4 on page 32 should be modified to read as follows: “He noted that the minutes mention that Commissioner Pearce was in favor of a path, but ~~nothing is mentioned~~ *no mention is made* about his *own* vote.”

Commissioner Fox requested that the use of the terms “path” and “sidewalk” on page 32 be clarified. Ms. Decker noted that in the context of the Ponderosa project, the terms were interchangeable.

The minutes were approved as corrected.

3. **MEETING OPEN FOR ANY MEMBER OF THE AUDIENCE TO ADDRESS THE PLANNING COMMISSION ON ANY ITEM WHICH IS NOT ALREADY ON THE AGENDA.**

There were none.

4. **REVISIONS AND OMISSIONS TO THE AGENDA**

Ms. Decker advised that Item 6.b., PADR-1338/PV-131, Dustin Boyce, would be continued to July 26, 2006.

5. **CONSENT CALENDAR**

a. **PCUP-163, Gayle Thomas**

Application for a conditional use permit to allow the sale of alcoholic beverages until 1:30 a.m. daily at Tommy T’s Restaurant located at 5104 Hopyard Road. Zoning for the property is C-F (Freeway Commercial) District.

Commissioner Fox requested that Condition No. 12 be modified to indicate that the full menu, with the exception of the New York Steak and Prime Rib entrees, be made available until closing time.

Commissioner Blank moved to make the conditional findings as listed in the staff report and to approve PCUP-163, subject to the conditions of approval listed in Exhibit B of the staff report as recommended by staff, with the modification proposed by Commissioner Fox.

Commissioner Pearce seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Arkin, Blank, Fox, Olson, and Pearce.
NOES: None.
ABSTAIN: None.
RECUSED: None.
ABSENT: None.

Resolution No. PC-2006-29 was entered and adopted as motioned.

6. PUBLIC HEARINGS AND OTHER MATTERS

a. **PAP-93, Dennis and Barbara Georgatos, Appellants (PADR-1472, Stan and Stacey Knight)**

Appeal of the Zoning Administrator's approval of an application for administrative design review to construct: (1) an approximately 180-square-foot covered patio; (2) an approximately 292-square-foot first-floor addition on the rear; and (3) an approximately 1,251-square-foot second-story addition over part of the center and side portions of the existing residence located at 779 Mirador Court. Zoning for the property is R-1-6,500 (Single-Family Residential) District.

Ms. Decker introduced the project planner, Natalie Amos, who would be available to answer specific questions on the project, and added that Robin Giffin would be presenting the staff report.

Commissioner Blank disclosed that he had met with the appellant the previous day.

Commissioner Pearce disclosed that she had met with the applicant, appellant, and one neighbor.

Commissioner Olson disclosed that he had met with the applicant, appellant, and two neighbors.

Commissioner Fox disclosed that she had met with the applicant, appellant, and one neighbor.

Chairperson Arkin disclosed that he had met with the applicant and appellant.

Ms. Giffin summarized the staff report, detailing the history, scope, and layout of the proposed second-story addition. She noted that after the applicants and their architect were unable to come to an agreement with the neighbors with respect to concerns regarding the proposal being out of character in their neighborhood, privacy, loss of view, shadowing, and decline in property values, a Zoning Administrator hearing was held. Ms. Decker conducted site visits to 790 East Angela Street, 798 East Angela Street, 779 Mirador Court, and the surrounding neighborhood. The potential impacts from the proposed addition were assessed, and the following mitigation measures were discussed:

(1) relocating the master bedrooms windows to the east and west elevations; (2) adding trees to soften the appearance of the addition and mitigate privacy concerns; and 3) moving the stairway farther to the east, which in turn would decrease the square footage and eliminate a small portion of the second-story addition. After the third meeting, the applicants were the only ones supportive of the proposed mitigation measures, with the exception of moving the stairway. The applicants believed their request was consistent with other City approvals in their zoning district.

Following the Zoning Administrator Hearing, staff worked with both the applicants and the appellants to find mitigation measures that would be acceptable to both parties; that mediation process was unsuccessful. The appellants would prefer that the applicants build a one-story addition, believing that a second-story addition would devalue their home. If the Planning Commission were to approve a second-story addition, the appellants would like the following to be included in the conditions of approval:

1. Replace the existing four-foot-six-inch fence along the rear of the applicants' property line with a seven-foot fence (six-foot solid and one-foot lattice) to be paid for by the applicants;
2. Use only non-deciduous trees that would not grow to a height above the elevation of the second story so there is no blocking of additional skyline;
3. Eliminate any new windows on the rear elevation; and
4. Relocate the stairs towards the east elevation in order to retain some of the current view.

The applicants understand the neighbors' concerns but believe they are exercising their property rights in an appropriate manner, particularly because they have not requested any variances and because no special view easements exist on this property. The applicants have agreed to plant two trees between the addition and the southern property line that will grow no higher than the elevation of the second-story addition. They have also agreed to modify the second-floor windows facing the appellants' property with transom windows that would have a sill height of six feet or higher to mitigate the appellants' privacy concerns. They have also agreed to pay for a seven-foot tall fence on the appellants' property line, if the appellants allow the originally proposed rear-facing windows that were removed during redesign.

The applicants would also provide landscaping on the southwest corner of the subject property to mitigate Mr. Bennett's privacy concerns. They would not, however, agree to pay for an increase in the fence height for Mr. Bennett's existing eight-foot fence nor a new seven-foot solid fence for Mr. Imperiale. Ms. Giffin noted that the Municipal Code does not allow fences in excess of eight feet tall and would not support an increase in Mr. Bennett's fence height.

In reviewing the design review criteria, staff believes that the proposed project is a well-designed addition to an existing house and would not negatively impact the natural beauty of the city. Staff believes the house is well designed, with appropriate colors and materials that were consistent with the residential character of the neighborhood. The

scale of the addition is in keeping with other homes in the neighborhood, and the proposed height of the addition is substantially lower than the maximum height allowed.

Staff believes the project's design preserves and enhances the residential character of the neighborhood by maintaining and supporting the existing character and development pattern of the neighborhood. The Craftsman architectural style allows for features of the existing house to be maintained, and staff believes it was harmonious with other homes in the neighborhood. The rear and side setbacks are more than what is required, and the project adheres to the Municipal Code requirements for the R-1-6,500 Zoning District. The current height of the residence is 15 feet; the addition would yield a maximum 24-foot height, with an average of 21 feet. Although the neighbors would see the proposed project, there are no private view easements granted for the subject property nor the surrounding neighbors. No landscaping was proposed as part of this project, although the applicants have agreed to plant the aforementioned two non-deciduous trees.

Staff recommends that the Planning Commission deny Case PAP-93, thereby upholding the Zoning Administrator's approval of Case PADR-1472 subject to Exhibit A and the conditions of approval listed in Exhibit B.

Chairperson Arkin noted that the existing livable square footage is within the 40 percent floor area ratio allowed.

In response to an inquiry by Commissioner Fox regarding whether there was anything in the Municipal Code regarding privacy as it relates to this project, Ms. Giffin replied that there were no special rules and that staff always looks at mitigations such as a solid fence, trees, and opaque and stained transom windows.

Commissioner Blank requested verification from staff regarding the accuracy of the line drawing exhibit showing the extent of the addition and the view from the Georgatos family room.

With respect to the shadow study, Commissioner Pearce inquired if there was any shadowing from the existing trees located on the east side of the property. Ms. Giffin provided photographs depicting the existing shadowing experienced by Ms. Martha Wensel, the east property owner, and presented staff's belief that the shadowing from the proposed second-story addition was negligible.

Commissioner Blank requested looking at the view from the Georgatos rear bedroom window.

Commissioner Fox requested clarification of the privacy issues and how they were addressed.

Commissioner Pearce discussed the proposed window changes and asked how the requested changes might impact the rear neighbors if three feet were added to the Georgatos fence.

THE PUBLIC HEARING WAS OPENED.

Dennis Georgatos, appellant, 790 East Angela Street, expressed concern that his property value and quality of life would be diminished by the proposed addition. He believed the second-story design was intrusive and that the architectural plans for the addition were drawn without consultation with them or their neighbors to the rear on East Angela Street, who would bear the impact of the addition. He stated that they discovered the scope of the project via noticing by staff related to the Zoning Administrator action. He pointed out the support that the applicants had gained were from Mirador Court residents, who would not have the privacy and view impacts they would have. He added that there was disregard for Ms. Wensel with respect to the significant shadow impacts.

He then indicated that he wished to correct the record related to inaccuracies in the staff report. He noted that on page 11, the staff report indicates that they negotiated to have and requested to increase their fence to seven feet. He stated that he did not want the fence and that noted that Ms. Amos had asked them what they would like to have to mitigate their concerns should the project be approved. His response was that if the alternatives were either to live with the second-story addition or having a seven-foot tall fence, he would prefer to have a fence; however, he unilaterally preferred the status quo. He noted that Ms. Decker also presented the same hypothetical discussion at the time of a site visit.

Mr. Georgatos stated that he objected to three of the conclusions presented on page 11 of the staff report, stating that the request for a fence is contradictory and does not accurately describe the situation. There was never an agreement that if the Knights paid for a fence, then they could have their rear windows. They did not negotiate for this and do not want any windows on the south elevations facing their backyard as it is an intrusion to their privacy. He noted that the Knights are unjustly preventing the neighbors from having their privacy and that their right to add on should be tempered by the impacts the neighbors believe they will be burdened with.

Mr. Georgatos noted that on page 11, the staff report is incorrect in its statement that the Georgatos would only be satisfied by the elimination of the second-story addition. He stated that his wife actually said that they could support the project if they just downsized the second story or reconfigured the design by moving a room to the first floor. He added that after the Zoning Administrator hearing and the discussion with the neighborhood to downsize the proposed addition, the Knights never followed through or proposed anything else and that the Zoning Administrator mitigated the project with the planting of two trees and the installation of transom windows. He reiterated the windows were not acceptable and did not want them there. He formally registered his complaint about the windows in the stairway on Exhibit 3.1 in that the line of sight drawing does show that the windows do have an impact on their privacy. He stated that comments have been made that there is no view protection ordinances in this neighborhood and that the zoning code allows this addition. He stated that people have purchased their homes with the understanding that they will have a certain view and yet the Knights or anyone else could

receive approval for something that would change their surroundings and impact them and the view that they and their neighbors currently have. He added that staff is incorrectly comparing apples to oranges when referring to developments on Foothill Road where the height for a single-story home is 24 feet. He stated that this observation is not applicable to this project because the Knights' proposal will impact their home by the new ridge elevation, and their view and quality of life will be taken away from them. He noted that his existing view was the selling point for his home and noted that a Pleasanton appraiser had estimated that the addition would decrease his resale value by approximate \$30,000, which would make it harder to sell his home in the future. He noted that the City's goal to "protect and enhance real property values" would benefit only the Knights and at their expense.

Mr. Georgatos took exception to the discussion in the staff report that the design criteria related to the preservation of views by residences and that privacy and quality of life as currently designed does impact their home and family. He urged the Planning Commission to uphold his appeal and overturn the Zoning Administrator's decision.

Stan Knight, applicant, 779 Mirador Court, stated that he and his wife have lived at this location for the last ten years, and the growth of their family has necessitated more living space. They have spent the past three years searching for a larger home but have been unsuccessful. So they began planning to remodel their home and considered adding a second story, especially since they liked their neighborhood. He indicated that they shared their idea with eight neighbors before initiating the City's review process. Several of the neighbors supported their proposal, and one did not object but expressed initial concerns about construction noise and dust. He continued that the objections of the neighbors to the south along East Angela Street were significantly underestimated, and since the grade of these homes is 12 feet higher than their own, they did not anticipate major concerns.

Mr. Knight then discussed the design considerations, indicating that they initially considered single-story expansion options as a lower-cost alternation, but they could not find feasible ground-floor layout that would offer the space they needed. They then considered second-story design configurations, taking into account the cost, living space utility, general exterior appeal, and impact to the neighbors. He added that after working with their architect, and reviewing the design criteria with the Zoning Administrator and staff and getting their input, they came up with the current fundamental architectural design as the only viable option. He stated that the proposed project conforms to all City zoning standards with no requested variances. He added that the design of the house has minimized the roof height to 24 feet at the highest point, which is six feet below the allowable limit, and the placement of the second-story windows were reconfigured to increase the number of opaque-glass windows with two other windows blocked by existing trees.

Mr. Knight continued that to allow the neighbors and City staff to better assess impacts, story-poles have been installed twice, and extensive and costly sun shadowing study has been undertaken. He added that the vast amount of mature vegetation surrounding the

property that would provide screening of the second-story and that they have also agreed to plant two additional trees to help with privacy concerns.

Mr. Knight clarified the shadowing and privacy impacts by showing a picture of the southern extension as viewed from the west elevation that depicted the story poles, projected roofline, and the existing 22- to 40-foot trees on the east and south of the property that currently cast shadows onto their as well as other neighboring properties. He then presented a picture that was taken May 24th at 4:00 P.M. showing the shading on 787 Mirador Court's side yard from the existing eight trees, several of which are over 35 feet. He then pointed out where the 18-foot story pole casts a shadow on the house and said that because the existing trees cast a shadow onto the property, the second-story would not further impact what currently exists.

Mr. Knight then presented a picture illustrating what a seven-foot fence would look like on the Georgatos' property with and without transom windows and a tree. He stated that the seven-foot fence would alleviate privacy concerns since there would not be a line of sight onto the property. He continued that additional landscaping, without a fence, would also suffice in mitigating privacy concerns. He added that while transom windows do provide privacy, mitigation measures should be added so that larger windows can be returned. He also presented a picture showing the view to the southeast towards 798 East Angela Street, stating that the substantial number of trees and foliage will effectively mitigate privacy issues for at least eight months of the year if not more. He then presented a picture of the view towards 784 East Angela Street and stated that with the removal of the west-facing windows in the master bedroom, the privacy concern is effectively eliminated.

Mr. Knight went on by stating alternative options for mitigation of privacy concerns from 790 East Angela. He requested the Commission to support the condition of approval to allow the rear windows in the master bedroom to be returned to their original state and stated that he agrees with the suggestion for a six-foot high redwood fence with a one-foot lattice on top to replace the existing approximately four-foot fence running parallel to the property line shared with 790 East Angela. He indicated, however, that he would agree to this only if the south-facing windows in the master bedroom are returned to their original design and only the other south facing window is opaque glass block; the Knights would carry the full cost of a standard redwood fence design at approximately \$30 per linear foot.

Mr. Knight requested the Commission's support and stated that they sincerely regret that their plans have caused concerns for some of the neighbors. He believed, however, that the stated negative impacts do not warrant preventing them from exercising their rights to enhance their property under the City's zoning guidelines. He continued that they feel their proposal is fair, reasonable, and justified, and they have made significant concessions in an effort to mitigate neighbors concerns. Mr. Knight said that they would like to thank and acknowledge City staff for their professionalism and thoroughness in executing this process.

Joe Rose, 768 East Angela Street, spoke in opposition to this project and expressed concern that the neighborhood was becoming more built up. He would like to preserve the view from his house as well as their privacy.

Tim Bennett, 784 East Angela Street, spoke in opposition to this project and expressed concern about their privacy and the impact of the addition on their property value. He thanked the Commissioners who came to their house to get a sense of the possible impacts on them. He stated that the Knights canvassed their neighbors on Mirador Court but never approached them during the process. He noted that none of the residents on Mirador Court, except the immediate neighbor, Martha Wensel, will be negatively affected by the proposed project and stand to gain by their increased property values. He stated that most of the comments from the neighbors are biased and that none of them have been in his back yard to gauge the effect of the project on his property.

Mr. Bennett stated that the Knights propose to double the size of their house and in a neighborhood of predominantly 1,600-square-foot single-story homes; the Knights' home would be over 3,000 square-feet. He continued by saying that because of the stepped nature of the hillside, his backyard offers views to Mount Diablo and the Livermore hills when the trees are bare and provides a wonderful airy, forest-like, private feel. He said that he now looks over the roofs of the houses on Mirador Court and feels that the Knights' proposed second-story addition will place the view of a structure from his backyard view and felt that trees could conceal some of that structure.

Mr. Bennett stated that after reviewing the Knights' plans, he believed there are definite opportunities to scale down their project by eliminating the second floor or moving it forward on the property. He continued that they should be a little more modest in their expectations as this proposal would get all the upside and their neighbors on East Angela Street would get all the downside. He added that with Pleasanton reaching buildout and property taxes based on sale value, this kind of inappropriately huge expansion is becoming too common as owners ride roughshod over their neighbors for their own self-interest and speculation. He stated that it is time for the Planning Commission and City Council to draw the line and exercise control before it is too late and the character of our neighborhoods is lost.

Mr. Bennett concluded that he is a Pleasanton businessman, a member of the Chamber of Commerce and Pleasanton Downtown Association. He said he was aware of how hard the City tries to maintain and improve its neighborhoods and amenities and sometimes decisions have to be made that are difficult at the time but are for the greater good; and this is one of those times.

Louis Bertolini, 776 East Angela Street, expressed his opposition to the project. He noted that he lived two doors down from the appellants and has a modest view of the proposed addition. He indicated that he had also previously proposed a second story to his home to increase the square footage for a growing family. He stated that after working with the Planning staff on the design and when he found out that it would have an adverse effect on the neighbors, he chose to compromise and not build the second store, thereby reducing the

size of his addition, in order to maintain the good will of the neighbors. He encouraged the Commission to provide leadership on this issue and to deny the project.

Erin Murphy, 778 Mirador Street, spoke in support of the project. She noted there were no privacy or view easements in this neighborhood. She took exception to the characterization of the supporters of the project as biased and noted that everyone who had an opinion about this project was biased. She stated that the view from the Mirador Court homes would also be impacted, but the residents were still not presenting any objection. She believed that the architecture is very attractive and in character with the neighborhood. She noted that there were several second-story homes in the Court and around the site and that while the addition would increase the value of the homes, it should not be a defining factor as the City does not have a guarantee for property values. She added that the zoning of the property was provided through the City process in determining the growth of the City and shaping its future, and noted that the opinions from the East Angela Street residents seem to override the community goals as reflected in the Zoning Ordinance.

Dan Georgatos, 790 East Angela Street, noted that he was the son of the appellants and spoke in opposition to this project. He requested that the Planning Commission act in accordance to the City's stated goals as a Community of Character and to act responsibly in this matter. He stated that he was distressed that the family's privacy and property value would be negatively impacted and that they would lose the view that they presently enjoy. He would like the applicants to re-examine their plans and to downsize the addition.

Peter Shutts, project architect, 4133 Mohr Avenue, noted that he would be available to answer questions about the project. He noted that the roof pitch was within the City's requirements and did not believe the view was a significant issue. He noted that the trees had a minimal impact on Mrs. Wensel's views.

In response to an inquiry by Commissioner Fox regarding whether the extended front yard was an issue, Ms. Giffin replied that in this case, no variance was required for the project.

Mr. Knight, the applicant, noted that they designed their addition so the four bedrooms could be located together. He conceded that they had made some mistakes in the beginning of the process but believed that their requests were reasonable.

THE PUBLIC HEARING WAS CLOSED.

In response to an inquiry by Commissioner Blank regarding the roof type, Ms. Giffin replied that it was Presidential Shake "Weather-Wood." She added that there were two panes of glass in the windows that face Mrs. Wensel's home.

In response to an inquiry by Commissioner Fox regarding whether there were other 3,000-square-foot homes in the neighborhood, Ms. Giffin replied that she did not know. She added that staff tried to pull that information and that some homes were built many years ago with no public records of the additions.

Commissioner Fox further inquired whether those older additions had been done legally. Ms. Giffin noted that sometimes records for legal additions were not available from many years ago.

Commissioner Pearce suggested that the applicants and appellants might be able to meet in the middle through a City-sponsored mediation process. She indicated, however, that she did not want multiple designs or drawings produced.

Commissioner Fox noted that she would rather make a motion than continue this item again.

Commissioner Blank supported continuing this item to a date certain so the applicants' schedule was not disrupted further.

Commissioner Olson noted that time was passing quickly for the construction season.

Commissioner Blank moved to continue the item to allow the applicants and the appellants and any other interested parties to participate in a mediation process by an outside facilitator and to have staff provide an update to the Commission at the June 28, 2006 meeting on the process and costs or cost-sharing of the process. Commissioner Fox seconded the motion.

Commissioner Arkin proposed an amendment that interested or concerned parties participate in the process and that it be noted in the public record if they did not participate.

Commissioner Arkin added that it would be his desire to have the City fund the entire cost of the outside facilitator; however, if that were not possible, then the applicants and appellants should share the cost.

Chairperson Arkin indicated that he would like to hear the opinion of both the applicants and the appellants regarding the medication process.

THE PUBLIC HEARING WAS REOPENED.

Mr. Georgatos noted that he would be amenable to mediation.

Mr. Knight noted that they would likewise be amenable to mediation and that he would entertain alternatives. He noted, however, that that they had some constraints that they would not be able to give up. He added that this project has been delayed considerably and that it was becoming very expensive for them.

THE PUBLIC HEARING WAS CLOSED.

Ms. Harryman advised that a facilitation process by its nature required willing parties to reach compromise and without that would likely not have a successful outcome.

Commissioner Fox desired that specific direction be provided addressing concerns such as modifying the proposed design by downsizing, reconfiguring the addition and moving it west to the other side of the structure, providing alternatives for screening and privacy, and removing or revising the staircase windows, and then bring back the plans to the Commission. She requested that staff do a survey of home sizes in the neighborhood to determine what the largest home in the general area was and use that as a guide for the maximum house size for any addition.

Chairperson Arkin noted that these comments were not representative of the Commission and that the parties should not feel constrained by Commissioner's Fox comments during mediation.

Ms. Decker noted that Commissioner Fox's concerns were the primarily concerns that the testimony had provided and would likely be part of the discussion through the mediation process. She indicated that staff was not certain whether that process could be pursued and that it may be possible for the City to fund half of the cost, with the applicant and appellant splitting the remainder of the fees. She added that staff would bring back the survey information when the project returned to the Planning Commission for a decision.

ROLL CALL VOTE:

AYES: Commissioners Arkin, Blank, Fox, Olson, and Pearce.
NOES: None.
ABSTAIN: None.
RECUSED: None.
ABSENT: None.

The motion passed.

A recess was called at 8:55 p.m.

Chairperson Arkin reconvened the meeting at 9:05 p.m.

b. PADR-1338/PV-131, Dustin Boyce

Application for: (1) administrative design review approval to demolish approximately 470 square feet of the existing home and to construct an approximately 2,222-square-foot two-story addition, an approximately 833-square-foot non-habitable basement, and an approximately 950-square-foot detached garage; and (2) variances from the Municipal Code to: (a) increase the floor area ratio (FAR) from 40 percent to 45 percent; (b) reduce the right (south) side yard setback from 5 feet to the existing 3.85 feet; and (c) increase the height of the garage from 15 feet to 20.5 feet at the property located at 4546 Second Street. Zoning for the property is R-1-6,500 (Single-Family Residential) District.

This item was continued to the July 26, 2006 meeting.

c. **PUD-51, Generations Healthcare**

Application for PUD rezoning of a 0.49-acre open area from P (Public and Institutional) District to PUD-MDR (Planned Unit Development – Medium Density Residential) District and for development plan approval for a two-lot single-family residential project to be located in the front of the existing

Ms. Decker presented the project and detailed the process that the project had gone through, including the workshop held at the Planning Commission meeting on January 25, 2006. She outlined the neighborhood concerns related to the issue of open space. As discussed at the workshop, the question as to whether the front portion of the lot was required to remain in open space in perpetuity was interpreted to indicate that it was not. She noted that the staff report from the workshop also discussed the issue about landscaping the site and that it is a standard requirement to have the landscaping designed and implemented per the approved plan. She elaborated that this requirement did not create a situation of perpetuity of an open space requirement. She also outlined the comments taken from the Planning Commission related to the issues of perceived mass and bulk and described the modifications that had been done related to those comments: the roof for Lot A had been reduced in height and the wrap around porch was reconfigured to be only at the front elevation.

Ms. Decker noted that although this project is not subject to the Downtown Design Guidelines, the design of the house reflects City objectives and goals which have been created for the Downtown district. She indicated that the site plan was developed through discussions between staff and the applicants, and the homes and garages were positioned to provide sufficient setbacks from the property lines, street frontages, and neighboring homes, while maximizing the usability of the private yard areas. Ms. Decker stated that the site plan is acceptable in terms of floor area ratios and the size and shape of the lots. The proposed development of two single-family homes would generate a negligible increase in traffic; the traffic volumes and levels of service would not be significantly affected, and no traffic mitigations would be required. She stated that the proposed grading and drainage plan contained a sufficient number of stormwater runoff measures and noted that the applicant had prepared a green building checklist.

Ms. Decker noted that the surrounding neighbors had expressed concern about the visibility of the existing convalescent home, especially at night. Since there is no signage at the driveway on Neal Street, non-regular visitors may miss the entrance and use the neighboring driveway to make a U-turn. To address this issue, a condition has been added requiring the facility management to install a sign at the entrance on Neal Street to direct visitors.

Ms. Decker recommended that the Planning Commission adopt the resolutions recommending that the Council approve the Negative Declaration and the project.

In response to an inquiry by Commissioner Fox regarding whether this site, which borders the historic Downtown district, was subject to its regulations, Ms. Decker replied

that it was outside that zone but that the architect included elements to incorporate the heritage feel of the district.

Commissioner Olson noted that the Zoning District and the General Plan were not in synch with respect to this property. Ms. Decker stated that was true.

THE PUBLIC HEARING WAS OPENED.

Terry Townsend, project architect, 147 Old Bernal Avenue, #6, presented the architectural revisions, elements, development of the designs, and how the project had changed over time in response to the direction provided by staff and the Planning Commission. He went over the streetscape that had been developed and explained that the elevations had been cut in to scale and presented the project relative to the site, the adjacent properties, and the street. He then described how the architecture fits into the Downtown character. He clarified that the setback from the porch to the street was 20 feet and that the porch to the property line had a setback of 12 feet. He noted that the grassy area was not deeded as a required open space. He noted that although the house was not within the historic district, many architectural features appropriate for that district were incorporated into the design. He noted that 100 mailers were sent to the neighbors, and that only one or two responses had been received.

In response to an inquiry by Commissioner Olson regarding the garage, Ms. Decker replied that in the original plans, the garage was more forward and that the visual impact has since been reduced.

In response to an inquiry by Commissioner Fox regarding detached garages, Ms. Decker replied that there were no examples of detached garages in the vicinity.

Fred Kirchbaum, 303 Neal Street, noted the importance of the public process and commended the Commission for listening to the residents regarding the appeal heard prior to this project, PAP-93. He spoke in opposition to this project and expressed concern that he would lose his view and that this structure would be too big for a half-acre lot. He was very concerned about speeding traffic and disagreed with staff's assessment that the project would have no significant traffic impacts. He noted that his 114-year-old home was historic and that the area was a historic district, whether or not it was part of the Downtown Specific Plan area or not, and should follow the Downtown Guidelines. He stated that the homes should not be allowed and that the open space should remain in perpetuity as promised in 1971.

Steve Black, 46 Coscata Court, administrator of the convalescent care facility and future owner of Lot A, spoke in support of the project and noted that he would like to have a sufficient-size house and did not agree with having a detached garage.

Brian Bourg, 4512 Second Street, stated that the Commission should acknowledge that there appeared to be a requirement to retain the landscaping in perpetuity with no additional development allowed on the site. He added that the neighborhood did have

assurances that the area would remain open space and that it was absurd that the neighbors needed to come and speak when prior approvals have already determined the site to remain as open space. He expressed his resentment to staff's representation of the uses allowed by the Public & Institutional zoning, making it appear that the neighbors should be pleased to have housing instead on the site. He indicated that the half-acre site was designed as a setback mitigation for the approval of the convalescent care facility. He stated that the proposed homes should not be allowed and requested the Commission to deny the project.

Bonnie Kirchbaum, 303 Neal Street, indicated her opposition to the development of the two vacant lots and would like them to remain as open space for the neighborhood. She expressed her concern that the Planning Commission had not been provided the 1971 approval documents she had on hand and felt that staff was trying to hold back the documents from the decision makers. She added that in 1971, the Design Review Board and the Planning Commission changed the zoning on the site and that Resolution No. 1070, dated February 23, 1971, approved a 129-bed facility with the condition that the parcel not be any smaller than 3.44 acres, which required the then developer to purchase land to maintain the minimum site size for the project. She added that the conditions dated December 14, 1971 required a front setback of 145 feet and a landscaping plan. She stated that she was not in favor of having large homes on small lots and preferred not to have the lot split. She stated that the City's promises to retain this open space should be kept and noted that no changes should be allowed.

Steve Samuelian, 300 Neal Street, owner and applicant, provided an overview of the development and rehabilitation of the facility, indicating that a new roof had been installed, a design review process undertaken for a porte cochere, and the patio and outdoor areas were under rehabilitation. He described the liability issues the facility faced with the neighborhood believing that the open space area was considered to be a "bona fide park" for its use and enjoyment.

Mr. Samuelian clarified that the proposed project was less than the 40-percent FAR required. He emphasized that he was not an outside investor and wished to continue to be a good neighbor. He noted that the house was a bonus for his facility manager's hard work and dedication to Generations Healthcare. He stated that they had worked hard with staff to bring a project forward that would fit in the neighborhood and added that while he liked the wraparound porch and the high-pitched roof, he would be happy to work with staff's preference.

Christine Bourg, 4512 Second Street, believed the open space should remain in perpetuity and disagreed with the City's deference to developers. She expressed her resentment at having the neighbors continue to come to meetings and noted that if staff did their job, the project would not be supported and would never have been allowed to get this far.

THE PUBLIC HEARING WAS CLOSED.

Chairperson Arkin noted that he would like to see the documents for the original approval of the facility. Commissioner Pearce concurred with that request.

Ms. Decker noted that while the landscaping may not strictly adhere to the original landscaping plans, it met the intent of not letting the open space become barren land.

Commissioner Arkin moved to continue the item to the June 28, 2006 meeting to allow staff to provide the Commission with copies of all relevant City documents related to the original 1971 approval of the convalescent care facility, including the staff reports, resolutions, minutes, and neighborhood meeting notes and minutes. Commissioner Fox seconded the motion.

Commissioner Blank requested a determination of appropriateness for staff to bring back to the Commission any and all newspaper articles, opinions, and clippings related to the approval process. Ms. Harryman replied that the decision the Planning Commission would need to make would be to review the City's records only in order to determine if open space was required in perpetuity and not newspaper articles from that time period.

ROLL CALL VOTE:

AYES: Commissioners Arkin, Blank, Fox, Olson, and Pearce.
NOES: None.
ABSTAIN: None.
RECUSED: None.
ABSENT: None.

The motion passed.

7. MATTERS INITIATED BY COMMISSION MEMBERS

Homes Adjacent to McKinley Park

Commissioner Fox noted that she would like staff to investigate the history of the two homes on First Street and Bernal Avenue, next to Kottinger Park, to determine if they were approved as a PUD. She will provide staff with the specific addresses.

Bay Books Window Signage

Commissioner Fox noted that Bay Books had lettering spray-painted by hand on their windows and would like that matter to be investigated by Code Enforcement to determine if they are in compliance with the Municipal Code.

Further Information on Generations Healthcare

Commissioner Olson would like to meet with staff to get background information on that item. Ms. Decker invited him to meet with staff during City business hours to review the project's history.

Traffic Light at First Street and Kottinger Avenue

Commissioner Blank expressed concern about the traffic light at First Street and Kottinger Avenue and its effect on traffic flow. Ms. Decker noted that this intersection had been a source of discussion with the Silverstone development and that this information would be provided to the Commission.

8. MATTERS FOR COMMISSION'S REVIEW/ACTION

a. Future Planning Calendar

There were none.

b. Actions of the City Council

There were none.

c. Actions of the Zoning Administrator

There were none.

9. COMMUNICATIONS

There were none.

10. REFERRALS

There were none.

11. MATTERS FOR COMMISSION'S INFORMATION

There were none.

12. ADJOURNMENT

Chairperson Arkin adjourned the Planning Commission meeting at 10:23 p.m.

Respectfully,

DONNA DECKER
Secretary