

CONDITIONS OF APPROVAL SUBDIVISION

15350 Winchester Boulevard

Planned Development Application PD-06-2

Subdivision Application M-06-2

Architecture and Site Applications S-06-12

Requesting approval of a minor Planned Development amendment to add one additional lot as permitted by the approved Planned Development, approval of the subdivision for the additional lot, approval to construct a single family residence on the new lot and approval to install a temporary sales trailer/model home office for property zoned RM:5-12:PD. APNS 424-29-024 through 026

PROPERTY OWNER/APPLICANT: Santa Clara Development Co.

**TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS:
(Engineering Division)**

1. **PARCEL MAP.** A parcel map shall be recorded. Two copies of the parcel map shall be submitted to the Engineering Division of the Parks & Public Works Department for review and approval. Submittal shall include closure calculations, title reports and appropriate fee. The map shall be recorded before permits for the 34th residential unit are issued.

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CONDITIONS OF APPROVAL ARCHITECTURE AND SITE

15350 Winchester Boulevard

Planned Development Application PD-06-2

Subdivision Application M-06-2

Architecture and Site Applications S-06-12

Requesting approval of a minor Planned Development amendment to add one additional lot as permitted by the approved Planned Development, approval of the subdivision for the additional lot, approval to construct a single family residence on the new lot and approval to install a temporary sales trailer/model home office for property zoned RM:5-12:PD. APNS 424-29-024 through 026

PROPERTY OWNER/APPLICANT: Santa Clara Development Co.

**TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:
(Planning Division)**

1. **APPROVAL:** This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the plans approved. Any changes or modifications made to the approved plans shall be approved by the Director of Community Development, Development Review Committee or the Planning Commission, depending on the scope of the change(s).
2. **EXPIRATION:** Zoning approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the approval has been vested.
3. **HOUSE SIZE.** No additional square footage shall be permitted.
4. **EXTERIOR COLORS.** The exterior colors shall match the colors approved during the Planned Development process. Any deviation from these colors shall be approved by the Director of Community Development. The CC&R's shall include this requirement as outlined in a condition by the Engineering Division.
5. **COMPLIANCE MEMORANDUM.** The applicant shall prepare and submit a memorandum with the building permit, detailing how each of these Conditions of Approval have or will be addressed.
6. **SALES TRAILER.** The trailer shall be removed from the site upon completion of the model homes. The trailer shall be set back as far as possible from the west property line.
7. **MODEL HOME OFFICES.** The office(s) shall be removed from the house prior to final occupancy.

(Building Division)

8. ***CULTURAL RESOURCES.** In the event that archaeological traces are encountered, all construction within a 50-meter radius of the find will be halted, the Community Development Director will be notified, and an archaeologist will be retained to examine the

- find and make appropriate recommendations.
9. *REMAINS. If human remains are discovered, the Santa Clara County Coroner will be notified. The Coroner will determine whether or not the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he will notify the Native American Heritage Commission, who will attempt to identify descendants of the deceased Native Americans.
 10. *REPORT. If the Community Development Director finds that the archaeological find is not a significant resource, work will resume only after the submittal of a preliminary archaeological report and after provisions for reburial and ongoing monitoring are accepted. Provisions for identifying descendants of a deceased Native American and for reburial will follow the protocol set forth in Appendix K of the CEQA Guidelines. If the site is found to be a significant archaeological site, a mitigation program will be prepared and submitted to the Community Development Director for consideration and approval, in conformance with the protocol set forth in Section 15064.5 of the CEQA Guidelines.
 11. *FINAL REPORT. A final report will be prepared when a find is determined to be a significant archaeological site, and/or when Native American remains are found on the site. The final report will include background information on the completed work, a description and list of identified resources, the disposition and curation of these resources, any testing, other recovered information, and conclusions.
 12. PERMITS REQUIRED: A building permit is required for the new house. Separate building permits are required for site retaining walls; separate electrical, mechanical, and plumbing permits shall be required as necessary.
 13. CONDITIONS OF APPROVAL: The Conditions of Approval for the Architecture and Site applications must be blue-lined in full on the cover sheet of the construction plans.
 14. SIZE OF PLANS: Four sets of construction plans, maximum size 24" x 36."
 15. STREET NAMES & HOUSE NUMBERS: The developer shall submit requests for new street names and/or house numbers from the Office of the Town clerk prior to the building permit application process.
 16. SOILS REPORT: A soils report, prepared to the satisfaction of the Building Official, containing foundation and retaining wall design recommendations, shall be submitted with the building permit application. This report shall be prepared by a licensed civil engineer specializing in soils mechanics. ALTERNATE: Design the foundation for an allowable soils 1,000 psf design pressure. (Uniform Building Code Volume 2 - Section 1805)
 17. FOUNDATION INSPECTIONS: A pad certificate prepared by a licensed civil engineer or land surveyor shall be submitted to the project building inspector at foundation inspection. This certificate shall certify compliance with the recommendations as specified in the soils report; and, the building pad elevation, on-site retaining wall locations and elevations are prepared according to approved plans. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer for the following items:
 - a. Building pad elevation
 - b. Finish floor elevation
 - c. Foundation corner locations
 18. RESIDENTIAL TOWN ACCESSIBILITY STANDARDS: The residences shall be designed with adaptability features for single family residences per Town Resolution 1994-61:
 - a. Wooden backing (2" x 8" minimum) shall be provided in all bathroom walls, at

- water closets, showers and bathtubs located 34 inches from the floor to the center of the backing, suitable for the installation of grab bars.
- b. All passage doors shall be at least 32 inches wide on the accessible floor.
 - c. Primary entrance shall have a 36-inch wide door including a 5' x 5' level landing, no more than 1 inch out of plane with the immediate interior floor level with an 18-inch clearance.
 - d. Door buzzer, bell or chime shall be hard wired at primary entrance.
- 19. TITLE 24 ENERGY COMPLIANCE: California Title 24 Energy Compliance forms CF-1R and MF-1R must be blue-lined on the plans.
 - 20. TOWN FIREPLACE STANDARDS: New wood burning fireplaces shall be an EPA Phase II approved appliance as per Town Ordinance 1905. Tree limbs shall be cut within 10-feet of chimneys.
 - 21. SPECIAL INSPECTIONS: When a special inspection is required by UBC Section 1701, the architect or engineer of record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the building permit. The Town Special Inspection form must be completely filled-out, signed by all requested parties and be blue-lined on the construction plans. Special Inspection forms are available from the Building Division Service Counter or online at www.losgatosca.gov.
 - 22. NONPOINT SOURCE POLLUTION STANDARDS: The Town standard Santa Clara Valley Nonpoint Source Pollution Control Program shall be part of the plan submittal as the second page. The specification sheet is available at the Building Division Service Counter for a fee of \$2 or at San Jose Blue Print.
 - 23. PLANS: The construction plans shall be prepared under the direct supervision of a licensed architect or engineer. (Business and Professionals Code Section 5538)
 - 24. APPROVALS REQUIRED: The project requires the following agencies approval before issuing a building permit:
 - a. Community Development: Sandy Baily at 354-6873
 - b. Engineering Department: Fletcher Parsons at 395-3460
 - c. Parks & Public Works Department: (408) 399-5777
 - d. Santa Clara County Fire Department: (408) 378-4010
 - e. West Valley Sanitation District: (408) 378-2407
 - f. Local School District: (Contact the Town Building Service Counter for the appropriate school district and to obtain the school form.)
 - g. Bay Area Air Quality Management District: (415) 771-6000

TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS:
(Parks Division)

- 25. NEW TREES. Newly planted trees shall be double-staked, using rubber tree ties and shall be planted prior final occupancy.
- 26. GENERAL. All existing trees shown to remain on the plan are specific subjects of approval of this plan and must remain on site.

* Required as mitigation measures

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A P P E A R A N C E S:

Los Gatos Planning
Commissioners: Phil Micciche, Chair
John Bourgeois
Michael Kane
Tom O'Donnell
Lee Quintana
Steve Rice
Joanne Talesfore

Assistant Director of
Community Development: Randy Tsuda

Town Attorney: Orry Korb

Transcribed by: Vicki L. Blandin
(510) 526-6049

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P R O C E E D I N G S:

CHAIR MICCICHE: There are no requests for
continuances and there's nothing on the consent calendar,
so we can move right to the first new public hearing, which
is 15350 Winchester Boulevard, Planned Development
Application PD-06-02, Subdivision Application M-06-02,
Architecture and Site Application S-06-12.

As I did last week, I'm going to have Randy speak
on the matter first and then if we have any questions of
Staff we could ask them now as well, okay?

RANDY TSUDA: As the Chair stated, this is a
minor amendment to the Planned Development for the Villa
Felice project. The project was originally approved by the
Town Council April 4th of last year and it includes 33 units
on a 5.9-acre site.

One of the stipulations in the Planned
Development states that one additional unit may be approved
by the Planning Commission for a current parking lot site,
and that the unit can be approved if an agreement is
reached between the developer and the adjoining Villa

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1 Felice Homeowners Association in order to eliminate that
2 parking easement.

3 The Planned Development stipulated that would
4 require a minor amendment to the Planned Development and
5 Architectural and Site Approval by the DRC. In this case
6 the DRC held a public hearing in December on the item.
7 Seven citizens expressed concern regarding the application
8 and DRC forwarded this to the Planning Commission for a
9 public hearing and for a final decision. The Applicants
10 expressed concern primarily about the visual impacts and
11 the height of the proposed unit.
12

13 In response to the concerns expressed to DRC the
14 Applicant did make some changes to the proposal. They
15 reduced the grade of the site from 4' to 3' above the grade
16 of the adjoining townhouse project. They eliminated the
17 second floor deck, and they also changed some of the roof
18 design of the first floor elements to reduce the apparent
19 height.

20 The proposed unit is located 34' from the Villa
21 Felice townhouse project and 10' from the property line at
22 its closest location. The developer is also proposing that
23 eleven 36" box trees be planted along that property line to
24 try and screen the visual impacts.
25

1 Behind you are the photographs that were
2 referenced in the Staff Report that delineate the view from
3 the townhouse project. As you can see, the view, given the
4 grade differentials between the two sites is prominent and
5 is quite visible. As we noted in the Staff Report, it would
6 be visible and prominent regardless of whether it is a two-
7 story or a one-story design.

8 So the key issues for the Commission to consider
9 tonight is to evaluate that visual impact, determine if it
10 is substantial and significant, and consider what
11 mitigation measures, if any, should be required to address
12 that impact.
13

14 And then the second part of the application is
15 the approval on the sales trailer and the model home
16 locations. These are two discreet items. You can approve
17 one and deny the other. You can take two entirely separate
18 directions and decisions on those two items. I can answer
19 any questions.

20 CHAIR MICCICHE: Any questions of Staff? John.

21 COMMISSIONER BOURGEOIS: In the previously
22 approved PD, how many of the approved homes were one-story?
23

24 RANDY TSUDA: One.

25 COMMISSIONER BOURGEOIS: Out of 32?

1 RANDY TSUDA: Thirty-three.

2 COMMISSIONER BOURGEOIS: Thank you.

3 CHAIR MICCICHE: Commissioner Talesfore.

4 COMMISSIONER TALESFORE: So the approval of any of
5 these are not dependent on each other? We don't have to
6 approve one? Is any approval dependent on another approval?

7 RANDY TSUDA: You have the set of actions required
8 to approve the unit, which is the amendment to the PD, the
9 Subdivision and the A&S application.

10 COMMISSIONER TALESFORE: Right.

11 RANDY TSUDA: To approve the house you need to
12 approve all three of those applications. Then there is the
13 approval on the mobile home and sales trailer.

14 CHAIR MICCICHE: Which is separate.

15 COMMISSIONER TALESFORE: Right. Okay.

16 CHAIR MICCICHE: Commissioner O'Donnell.

17 COMMISSIONER O'DONNELL: I have a question of
18 Staff. The language that was used originally was that they
19 may do that. It's quoted among other places in the letter of
20 January 10th from Santa Clara Development. It says one
21 additional unit may be permitted if the applicant and the
22 adjacent Villa Felice townhome development agree to
23 eliminate the existing parking easement. And then it says
24 the DRC can consider that.

25 When the DRC considered it, other than the fact
that because there was a strong opposition and therefore it

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1 was brought up to us, did the DRC state any standard that
2 they felt governed by? In other words, when they say they
3 may do that it isn't clear to me. It says you may do that if
4 this occurs and this occurs. I read "may" to mean you have
5 to make other showings. What did the DRC look for, or did
6 you get that far?

7 RANDY TSUDA: What the DRC did was consider the
8 input from the seven residents that testified at the
9 meeting. Most of the comments revolved around the same
10 issues of visibility and the height of the units.

11 The Applicant at the time stated they wanted to
12 look at ways to address those concerns. So at that point the
13 DRC did not give specific direction in terms of the degree
14 to which they should be mitigated, and as you stated,
15 there's no specific direction like that contained in the PD
16 ordinance, nor in any other applicable codes.

17 So the DRC did not give specific direction on the
18 degree to which it need to be mitigated. Rather they
19 accepted the Applicant's statement that they wished to look
20 at ways to address those items. The DRC's specific action
21 was that between the hearing date and the Planning
22 Commission date that would give the Applicant time to study
23 the design and look at ways to address those issues.

24 CHAIR MICCICHE: Excuse me, I was a little
25 confused on that was well. I read it to mean that if
agreement was reached they could build another home there.

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1 Let me take the word "may" out. Once they reached agreement,
2 the way I read that I thought it meant they could build a
3 home there. I also have the question if the home that is
4 going to be built there is an issue with the neighbors?

5 RANDY TSUDA: The way it's worded in the PD, it's
6 "may." It's not "shall," so it's not a firm requirement.
7 It's discretionary.

8 CHAIR MICCICHE: But even if there was an
9 agreement we could still deny building a home there?

10 RANDY TSUDA: Right.

11 COMMISSIONER O'DONNELL: Well it says, "May be
12 permitted" too. It doesn't say they may build the home.

13 RANDY TSUDA: Right.

14 COMMISSIONER O'DONNELL: It says it may be
15 permitted, which I took to mean that whoever that would be,
16 either the DRC or us, could grant them the necessary
17 permission, as opposed to your reading. I was curious about
18 that too, because you could look at it either way.

19 CHAIR MICCICHE: Any other questions of Staff? If
20 not, I'll give the Applicant his five minutes. Would you
21 state your name for the record, please?

22 RICK KNAUF: Hi, my name is Rick Knauf. I'm with
23 Santa Clara Development Company. Thank you for the
24 description of our project. Good evening members of the
25 Planning Commission and Town Staff.

1 I'm here tonight to talk to you about our plan to
2 add one additional home to the Villa Felice development and
3 allow for a temporary sales trailer and two model homes.

4 We received our approval for the Planned
5 Development zoning for 33 homes in April 2005, and the
6 conditions of approval allowed for one additional home if we
7 were able to eliminate a parking easement with the
8 association next door, the Villa Felice Townhome
9 Association. For reference, the parking easement is this
10 area right here and the Association is located around the
11 site.

12 We worked extensively with the Association and
13 concluded our agreement in June 2005. During our discussions
14 we were upfront with the Association about our intention to
15 place an additional two-story home in the area of the
16 parking easement and provided them a plan, which included
17 the proposed home.

18 Additionally, this Planning Commission and the
19 Town Council were shown this plan for the 34th home when our
20 project was approved back in 2005. This exhibit, which
21 depicts the additional home, was taken from our previous
22 presentation from last year. It shows the extra home here.

23 We met with the Development Review Committee in
24 December to present our plans, and at that meeting some of
25 the adjacent neighbors had some concerns about the
additional home. The primary concerns were the massing of

1 the home and the loss of privacy. We've responded since then
2 to their concerns by lowering the grade of the lot and
3 modifying the architecture of the home.

4 In looking at this exhibit, the blue dash lines
5 show the height of the home in specific elements, as
6 originally shown to the Development Review Committee. Our
7 new plan effects several changes.

8 We lowered the pad elevation of the home by 1.3'.
9 You can see the old height here, and then it's been lowered.

10 We removed the deck on the second floor, which was
11 in this location, and replaced it with a gable roof, which
12 has been lowered. Additionally, this single-story element
13 has a gable roof and we've lowered that as well. The
14 reduction in both of these significantly lowers the mass of
15 the house.

16 The second story windows up in this area are clear
17 story windows where the bottom of the window is at 6' and
18 goes up, so they're above eye level to secure the privacy
19 for the neighbors next door. We've removed these two windows
20 back here as unnecessary, again for the privacy issue. In
21 the front of the home there are two typical windows that
22 remain. Those are approximately 55' from the property line
23 and 75' from the adjacent home.

24 In looking at the next exhibit, we selected this
25 plan initially due to the shaded single-story elements,
which are closest to the neighbors, these two elements right

1 here. The single-store elements provide a good transition
2 for the adjacent properties.

3 From a site standpoint the minimum distance from
4 the proposed home to the property line is 10', which is back
5 here. To the second story the minimum distance is 21',
6 which is back in this area. The average single-story
7 distance away from the property line is about 20', and the
8 average distance to the second floor is 33', along the edge
9 here.

10 In addition, we have got designs to plant 11
11 fruitless olive trees along the edge, which will be 36" box
12 trees, and when planted will be 8' to 9' high.

13 Now I'd like to discuss our temporary sales
14 trailer and the two model homes. We selected this area for
15 the sales trailer since it is near the front of the site,
16 adjacent to some parking, and provides a safe location clear
17 of the construction of the homes, which will be taking place
back here.

18 The trailer has been placed to minimize the impact
19 on the neighbors and respect their privacy. The trailer is
20 15' from the property line, does not have any windows on
21 that edge, and will be at grade level all the way down as
22 far as possible, again for privacy standards. The height of
23 the trailer is about 9', the same height as these trees that
24 will be planted.

1 Additionally, the trailer will be temporary and
2 should be there approximately six months. As soon as the
3 model homes are done we're going to move the sales office
4 into one of them and remove the trailer from the site.

5 In closing, we've worked diligently with the
6 neighbors and been clear as to our intentions from the
7 start, including the addition of the 34th home. In the spirit
8 of cooperation we've responded to the concerns of the
9 neighbors by lowering the pad elevation of the home,
10 removing the second floor deck, and modifying the second
11 story windows to secure the neighbors' privacy. This
12 proposed home compliments both developments and has setbacks
13 typical in the Town of Los Gatos.

14 Thank you and I'm available for questions.

15 CHAIR MICCICHE: Do we have any questions of the
16 Applicant at this time? Commissioner Rice.

17 STEVE RICE: A couple questions. First of all, the
18 trees that you want to put on that fence line, was that
19 discussed as well with the neighboring homeowner
20 association?

21 RICK KNAUF: They are aware that they're going to
22 be put in. That was part of our original plan as well.

23 STEVE RICE: You have one single-story home in the
24 rest of the project, correct?

25 RICK KNAUF: Yes.

 STEVE RICE: And that's a BMP unit?

1 RICK KNAUF: Correct.

2 STEVE RICE: How many square feet is that?

3 RICK KNAUF: That's approximately 840 square feet.

4 STEVE RICE: And the home you want to put here is?

5 RICK KNAUF: This is 2,200 square feet roughly.

6 Our market rate homes range from approximately 1,900 feet up
7 to about 3,000.

8 STEVE RICE: That's fine for now. Thanks.

9 CHAIR MICCICHE: Commissioner O'Donnell.

10 COMMISSIONER O'DONNELL: Have you seen the
11 photographs that are on the wall behind me?

12 RICK KNAUF: Yes, I have. We actually put two sets
13 of story poles up. Some got blown down in the winter storm
14 over Christmas. Those were the first ones put up. The ones
15 that we subsequently put up had the orange netting in the
16 same spot and then had the green netting below it to reflect
17 the changes that we've made since the Development Review
18 Committee meeting.

19 COMMISSIONER O'DONNELL: Well you're talking about
20 olive trees that reach a height of about 9', is that
21 correct?

22 RICK KNAUF: Yes.

23 COMMISSIONER O'DONNELL: And how high is the green
24 netting on the same basis? In other words, you measured 9'
25 from ground level. If you measured it from the same ground
level, what's the elevation of the green netting?

1 RICK KNAUF: Are you talking about the top ridge
2 of the home?
3 COMMISSIONER O'DONNELL: Yes.
4 RICK KNAUF: Twenty-two feet, two inches is the
5 top of the house.
6 COMMISSIONER O'DONNELL: All right. Thank you.
7 STEVE RICE: Can I ask clarification real quick?
8 CHAIR MICCICHE: Go ahead.
9 STEVE RICE: You said 9' is when they're planted,
10 or 9' at full-grown?
11 RICK KNAUF: Nine feet when they're planted. We've
12 actually already purchased the trees.
13 STEVE RICE: How tall do they get?
14 RICK KNAUF: My understanding is they get about
15 20' to 25' high.
16 STEVE RICE: That's what I thought. Thank you.
17 CHAIR MICCICHE: Commissioner Talesfore, you've
18 been shaking your hand there for a while.
19 COMMISSIONER TALESFORE: Thank you. You may wonder
20 why I'm asking this question, but why do you want to add
21 this one more house? I mean I can imagine what the answer
22 is, but I still would like to hear.
23 RICK KNAUF: When we looked at the development
24 initially it had a parking easement on it, and we started
25 discussions with the neighbors early on to see if that was
something that could be eliminated. And so from the outset

1 we had an idea that we wanted to build a house there.
2 Whether it was going to be possible or not, we didn't know.
3 COMMISSIONER TALESFORE: So that was always your
4 intent?
5 CHAIR MICCICHE: Yeah, they got it approved.
6 RICK KNAUF: Yes.
7 COMMISSIONER TALESFORE: And you talked to the
8 neighbors, you said, about that, or the Homeowners
9 Association?
10 RICK KNAUF: The neighbors are part of the
11 Townhouse Association. We've had extensive conversations
12 with them since March 2004, just about the development
13 itself as well as more recently this specific lot.
14 COMMISSIONER TALESFORE: And are you speaking
15 about the neighbors directly adjacent to this area that
16 we're talking about?
17 RICK KNAUF: Yes.
18 COMMISSIONER TALESFORE: That's all for now. Thank
19 you.
20 CHAIR MICCICHE: Commissioner Quintana, do you
21 have a question?
22 COMMISSIONER QUINTANA: How high is the single-
23 story element? What's the height of the single-story
24 element?
25 RICK KNAUF: Approximately 10.5'.

1 COMMISSIONER QUINTANA: That's including the
2 gabled roof?
3 RICK KNAUF: Yeah, that's the gable roof. It does
4 not include the chimney that's in the one portion of it.
5 COMMISSIONER QUINTANA: And at the time that these
6 photos were taken, what was the height?
7 RICK KNAUF: Hang on, let's put up the elevation
8 again. The gable roof here has been dropped to about 2.5'.
9 This represents where the deck was going to be, and then we
10 replaced it with a lower gable roof. That gable roof lowers
11 approximately between 1' and 3' on the edges.
12 COMMISSIONER QUINTANA: Also, could you tell me
13 what the distance is between the building plain on the north
14 side of the property to the building plain of the
15 townhouses?
16 RICK KNAUF: Yes. The minimum setback along here
17 for these houses is about 22', so they're 22' back from the
18 property line, on a minimum basis.
19 COMMISSIONER QUINTANA: Actually that wasn't my
20 question. I meant the townhouses to the north. Those.
21 RICK KNAUF: Up here?
22 COMMISSIONER QUINTANA: Right.
23 RICK KNAUF: I'm sorry. Over here?
24 COMMISSIONER QUINTANA: No, the ones to the north.
25 RICK KNAUF: Okay. Hang on; we may have a plan we
can measure. I don't know that off the top of my head.

1 COMMISSIONER QUINTANA: Okay. Same question for
2 the ones to the south.
3 RICK KNAUF: From the property line or from the
4 home or homes?
5 COMMISSIONER QUINTANA: From the home-to-home.
6 RICK KNAUF: So like 50' to 70'.
7 COMMISSIONER QUINTANA: Thank you.
8 CHAIR MICCICHE: Any more questions? Commissioner
9 Talesfore.
10 COMMISSIONER TALESFORE: Can you refresh my memory
11 again? Do you have the original map that was approved?
12 RICK KNAUF: Yes.
13 COMMISSIONER TALESFORE: Can you show that to me?
14 RICK KNAUF: This shows the 34th lot also, but the
15 rest of it is as it was approved.
16 COMMISSIONER TALESFORE: And refresh my memory.
17 Without the lot that was a parking lot, correct?
18 RICK KNAUF: Correct.
19 COMMISSIONER TALESFORE: And how many parking
20 places were there?
21 RICK KNAUF: There were 19 spaces.
22 COMMISSIONER TALESFORE: And that was for the
23 visitors, correct?
24 RICK KNAUF: Correct.
25 COMMISSIONER TALESFORE: That's what I thought.
Thank you.

1 CHAIR MICCICHE: Commissioner Bourgeois.

2 COMMISSIONER BOURGEOIS: So in this development
3 you have one single-story home and it's a BMP unit, and it
4 looks like the BMP units, some of them are paired, is that
5 correct?

6 RICK KNAUF: Yes, we have two pairs and then the
7 one single.

8 COMMISSIONER BOURGEOIS: Okay, and the single-
9 story is in one of the paired ones, or is it the single one?

10 RICK KNAUF: No, the single-story is a single-
11 family dwelling.

12 COMMISSIONER BOURGEOIS: And was there a reason
13 that that single-story BMP had to be located in that lot?
14 Was there an overriding concern of another neighbor group
15 that that had to be one story or can you flip-flop those?

16 RICK KNAUF: We had two pairs and then we wanted
17 to add an extra unit for community benefit, which is a
18 driving force to have one extra BMP. I don't think it was an
19 imperative factor. Can we flip it? I'm not sure if the
20 parties... Peggy, do you want to flip that house? I don't
21 think that would probably go over.

22 COMMISSIONER BOURGEOIS: Okay.

23 COMMISSIONER TALESFORE: To continue with my other
24 question then with the parking lot. Were you planning on
25 planting trees along that parking lot as well? I can't
remember.

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1 RICK KNAUF: Yes, we were planning to plant these
2 trees along the parking lot.

3 COMMISSIONER TALESFORE: The same olive trees that
4 you already purchased?

5 RICK KNAUF: Yes, at the time they were spec'd out
6 at 15 gallon, and since then they've become 36" boxed trees.

7 COMMISSIONER TALESFORE: Okay, so that's sort of a
8 wash then. I mean that was already going to be there.

9 RICK KNAUF: We had planned on trees there
10 initially.

11 COMMISSIONER TALESFORE: Okay. Thank you.

12 CHAIR MICCICHE: Commissioner Rice.

13 STEVE RICE: In keeping with the architectural
14 style that you've got going on the other 33 lots, since you
15 do have one single-story, how large of a single-story home
16 could you put on that lot comfortably?

17 RICK KNAUF: I don't know the answer to that
18 question. I think when we originally started looking at what
19 house to put here we specifically looked at what house we
20 thought would fit best in trying to respect the neighbors'
21 distances with these single-story elements and try and set
22 back the second story as far as possible.

23 STEVE RICE: I understand that, but you've got-at
24 least in my mind-a couple of issues, one of which being that
25 grade differential that exacerbates the problem. I'm just

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1 curious if you ever looked at putting a single story on
2 there or not, and I think I'm getting answer of no.

3 RICK KNAUF: No, we never looked at putting a
4 single story on there. Our height again is 22'2" roughly.
5 The neighboring properties next door are 23' to 25'.

6 STEVE RICE: Okay. Thank you.

7 CHAIR MICCICHE: Let me ask a question. What's the
8 square footage of that lot?

9 RICK KNAUF: Approximately 7,000 square feet.

10 CHAIR MICCICHE: Commissioner Kane.

11 COMMISSIONER KANE: The townhouse #5 that we've
12 referred to as being the one most severely impacted by this
13 lot, have you been in there? Have you been inside the home,
14 out by the spa, the Jacuzzi, walked that backyard?

15 RICK KNAUF: Yes, we have.

16 COMMISSIONER KANE: I'll tell you what I'm
17 struggling with. It's not a fine point of law per se, but
18 what if you owned that unit? How would you feel tonight if
19 you left here we having approved the construction of this
20 house? I'd be devastated. I live a house right now that was
21 once on a quiet street. The other side of the street is
22 turning into 7,000 houses. So maybe I'm being caught up in
23 my own situation, but my empathy is substantial for the
24 owners of #4 and #5 in particular. I've even seen the shadow
25 studies.

1 CHAIR MICCICHE: Commissioner Kane, may I
2 interrupt? I don't mind questions of the Applicant, but let
3 me make one statement. They evidentially signed an agreement
4 so they could build a house there with those people. So I'm
5 not sure we should put ourselves in the shoes of the
6 neighbors at this point. But if you have question, by all
7 means ask it.

8 COMMISSIONER KANE: I did. How would you feel if
9 you were the owner of #5?

10 CHAIR MICCICHE: I'm not sure that's an evidence
11 question, and it's very subjective. So at this point why
12 don't we get specific questions out if we can? Commissioner
13 O'Donnell.

14 COMMISSIONER O'DONNELL: I too would not be happy
15 if I looked at that wall. On the other hand, if I understand
16 you correctly, whether I look at the wall or I don't look at
17 the wall, it sounds like I'm going to look at olive trees to
18 a height of 20' to 25', and I'm kind of wondering whether
19 I'll be able to see the house behind the olive trees.

20 RICK KNAUF: Well I think with the lower, it is
21 down to about 3' roughly below our grade, and once you put
22 up olive trees that are going to go above the wall, there's
23 going to be a pretty good screen along there.

24 COMMISSIONER O'DONNELL: What is the measurement
25 from tree trunk to tree trunk? I'm trying to figure out
density from a visual standpoint.

1 RICK KNAUF: Let me tell you that in just a
2 second.
3 CHAIR MICCICHE: What's the difference? If the
4 neighbors signed an agreement, they give it up. I mean what
5 are we doing?
6 RICK KNAUF: They're roughly 20' on center, 20'
7 from tree to tree.
8 COMMISSIONER O'DONNELL: And the estimated canopy
9 of these olive trees at full grown?
10 RICK KNAUF: Approximately 20'.
11 CHAIR MICCICHE: Any other questions? Commissioner
12 Quintana.
13 COMMISSIONER QUINTANA: I think I just missed part
14 of my answer. Your question was?
15 COMMISSIONER O'DONNELL: My question was about the
16 canopy.
17 COMMISSIONER QUINTANA: Was 20' when full grown?
18 Okay, that's part of my question. The backyards of the
19 townhouses are about what, 10' deep?
20 RICK KNAUF: No, they're 22' to the building face,
21 roughly 22' to 24'.
22 COMMISSIONER QUINTANA: From the townhouse to the
23 property line?
24 RICK KNAUF: The property line.
25

1 COMMISSIONER QUINTANA: So the olive trees when
2 they're mature will have a canopy that extends over into the
3 adjacent yards about 10', is that correct?
4 RICK KNAUF: Roughly. Probably not that far,
5 because they're going to be planted on our side of the wall,
6 but plus or minus.
7 COMMISSIONER QUINTANA: And these are slow-growing
8 trees that will take, under optimum conditions from my
9 figures of growing 18" a year, approximately nine to ten
10 years optimum.
11 RICK KNAUF: That sounds reasonable.
12 CHAIR MICCICHE: Any other questions?
13 COMMISSIONER O'DONNELL: I think this question has
14 been asked, but I want to be really, really clear on it. I'm
15 wrestling with this thing too. You've been asked about a
16 single-story house. Obviously there are some of us perhaps
17 that feel that a single-story house might be easier to deal
18 with, and I think you have told us that you have not
19 considered a single-story house there. Does that answer mean
20 you would not consider a single-story house there?
21 RICK KNAUF: At this point we have got a plan that
22 we feel has got appropriate setbacks, an average of 33' to
23 the second story, and an average of roughly 20' to the
24 single-story elements that run along there, and we think
25 that that solution generally speaking is a reasonable
expectation.

1 COMMISSIONER O'DONNELL: And the answer to my
2 question is?
3 RICK KNAUF: We're comfortable with the house
4 we've got there.
5 COMMISSIONER O'DONNELL: So you would not consider
6 a single-story house? That was the question.
7 RICK KNAUF: No.
8 COMMISSIONER O'DONNELL: Thank you.
9 CHAIR MICCICHE: Question, Randy. What is the
10 required setback of that property again?
11 RANDY TSUDA: If it was a conventional R1-8 zone,
12 our smallest lot size zone, the side setback is 8'.
13 CHAIR MICCICHE: Eight feet? So if they put a
14 single-family home there the house could be 8' from the
15 property line?
16 RANDY TSUDA: It could be as close as 8'. In this
17 case it's 10'.
18 CHAIR MICCICHE: So it would move from 21' to 8'
19 if they went single-story?
20 RANDY TSUDA: The current single-story setback is
21 10'.
22 CHAIR MICCICHE: Oh, 10'? I'm sorry, 10'.
23 COMMISSIONER O'DONNELL: Well just to follow-up
24 with that, maybe I can ask Staff or I can ask you. The
25

1 height of this I think you've said is 22' and some inches.
2 The height of a single-story would be?
3 RICK KNAUF: I'm going to say around 17'. I mean
4 it can be lower, but it's typical. A 22' two-story home is
5 about as low as we've ever built. The allowed height is 30'
6 out here, and when we got into the design of this property
7 we wanted to keep these homes down. So this is a pretty low
8 two-story home.
9 CHAIR MICCICHE: Thank you. Commissioner
10 Talesfore.
11 COMMISSIONER TALESFORE: As a follow-up to that.
12 So the single-story element that is now presently on your
13 two-story home that you are proposing, what's the height of
14 that?
15 RICK KNAUF: The single-story element is
16 approximately 10.5".
17 COMMISSIONER TALESFORE: High?
18 RICK KNAUF: To the peak, yes.
19 COMMISSIONER TALESFORE: Thank you.
20 CHAIR MICCICHE: If anyone wishes to speak on this
21 item I'm going to be calling the public up in a moment. You
22 have to fill out one of these cards and pass it in to either
23 end. At the present time I only have one card. We will call
24 you back for rebuttal, Mr. Knauf.
25 RICK KNAUF: Thank you.

1 CHAIR MICCICHE: So if you intend to speak, please
2 give a card up to me. The only card I have at this point is
3 Citizen Ray.

4 RAY DAVIS: Well I'm going to speak in the public
5 interest.

6 CHAIR MICCICHE: The cards are behind that. Let me
7 help you. We'll start his time again.

8 RAY DAVIS: I'm going to wait until I have his
9 attention.

10 CHAIR MICCICHE: Okay.

11 RAY DAVIS: I'm going to try to get his vote.
12 Almost impossible, but I'm going to try.

13 I remember the original discussion. Zero setback
14 lots, 20' wide street, no parking on the street. The issue
15 was if somebody had some guests over and there were more
16 than two cars, where were they going to park? And I've been
17 in and out of this type of development all my life. It's
18 always a sweat to find the place to park at night if there
19 isn't suitable parking. And I understand now they've dropped
20 out the--what I considered at the time--the suitable parking
21 for the 33 homes.

22 And incidentally, this is a PUD, which means the
23 parking standards were all thrown out for the standard
24 zoning RM5-12. That's the standard zoning. They're all
25 thrown out. There is no protection. And so your ass now at
the end of the day, shall we say, to add another lot to the

1 project without considering the whole project again in its
2 entirety, which is what you do with a PUD. That's the object
3 of a PUD, when you throw out all the standards.

4 Now I've given this lecture to Citizen Kane
5 before, and I'm going to do it again. I don't see how after
6 you've given approval of this and it's gone through an
7 appeal process, you suddenly reopen the density question
8 without discussing every damn issue in the project. You
9 haven't done that.

10 And I think the issue that cries out for your
11 jurisdiction is the issue of parking. If they dropped 17
12 parking stalls and all they got left at the end of the
13 project are the driveways, which hold two cars, and no
14 parking on the street, I say you have not just a difficult
15 problem from planning, but an idiotic problem.

16 These people don't care. They're developers. The
17 dollar bill is all they care about. You know that. You're
18 here to take care of the public interest, the livability,
19 the fact that once it's developed it's a development forever
20 in Los Gatos. You need to have the quality of life and the
21 thrust of all the public documents as your main charge, and
22 not the economic needs of the developer, and that's all he's
23 talking about. Economic needs. He wants to make another
24 buck, and it's going to set, if nothing else if you approve
25 it, a tremendous precedent for the next guy who says after

1 it's all said and done I want one more. One more is a
2 million bucks.

3 CHAIR MICCICHE: Mr. Davis, sit down.

4 RAY DAVIS: Yavol!

5 CHAIR MICCICHE: Sit down.

6 RAY DAVIS: Yavol!

7 RANDY TSUDA: The way the agreement was structured
8 is that parking lot provided guest parking for the
9 townhouses during the daylight hours. With the elimination
10 of the spaces, we still have a surplus of 20.

11 CHAIR MICCICHE: I think I read in the report,
12 does this meet all the traffic and parking requirements?

13 RANDY TSUDA: It meets the traffic requirements
14 and we still have an excess of 20 parking spaces for the
15 project.

16 CHAIR MICCICHE: For the project, okay. Everybody
17 clear on that? I have one other card on this hearing, and
18 that is Peter Lilijegren and he's from unit #5 of the
19 townhouses.

20 PETER LILIJEGREN: This is the first time I've
21 ever been to a city council meeting, so if I'm not too
22 formal, I don't know parliamentary procedures too well,
23 please excuse me for a little of my lack of experience.

24 What I have done is I've taken some more recent
25 photographs of the backyard with the new story poles and
with the new colorations of the green nettings here, so you

1 can then take a look at this and see what the actual impact
2 is from standing in the backyard. And so I'd like to be able
3 to share that with you if possible.

4 CHAIR MICCICHE: Bring it over here.

5 PETER LILIJEGREN: Now I'll say that I'm a
6 relatively new total owner in this property. I own part of
7 it in the June timeframe, but I could say I did not vote for
8 the approval of the selling of the easement. I cannot speak
9 from the point of view of this being absolute fact yes or
10 no, but what I can understand to be the case is that when
11 the Homeowners Association did vote to allow for
12 consideration of another building back there, that there was
13 nobody in the association who voted who had thought that
14 there was going to be a two-story property on this site with
15 this kind of large aesthetic impact. If you were to poll the
16 people who are in units #1 through #5, I think they would
17 all uniformly say that that is a correct statement on my
18 part.

19 My concern as the owner of it, and as Michael was
20 saying, that I have a privacy issue; I have a lighting
21 issue; I have an economic issue. I do use this unit as a
22 rental property right now and it will affect my rents.

23 I think if I was to look at the totality of the
24 economic impact of the current proposal, I can say that the
25 current one is better than the previous. The previous one
was absolutely horrible. There was the ability from the

1 first story balcony to actually, if you wanted, throw
2 cigarette butts, beer cans, into the Jacuzzis in the back of
3 the back units. It was that invasive.

4 Now I could say that they've made some
5 improvements, but I'm not convinced that you could not see
6 down into the units from the windows that are being
7 proposed. And the lighting impact of this, besides an
8 aesthetic impact, is clearly significant.

9 I think that in totality that the adverse market
10 impact on units #1 through #5 exceeds any monies that were
11 provided to the Homeowners Association for the selling of
12 those easement rights. Bad economic deal. I didn't vote for
13 it.

14 CHAIR MICCICHE: Excuse me. Is there anyone here
15 do you know of that did vote for that? Are they in the
16 audience, do you know?

17 PETER LILIJEGREN: I believe there are, yes.

18 CHAIR MICCICHE: Maybe we'll get other speakers up
19 here then. You were not part of that vote then?

20 PETER LILIJEGREN: Yes, I was not part of that
21 vote.

22 CHAIR MICCICHE: Or at the time that the group
23 sold the parking lot?

24 PETER LILIJEGREN: That's correct.

25 COMMISSIONER TALESFORE: And you weren't because
you didn't own it at the time?

1 PETER LILIJEGREN: I owned part of it, but I
2 didn't own the full amount, and I was not privy to enough
3 details to be able to intelligently make a vote.

4 CHAIR MICCICHE: Do you know if the previous owner
5 was a part of the vote?

6 PETER LILIJEGREN: Was not.

7 CHAIR MICCICHE: Was not part of the vote?

8 PETER LILIJEGREN: Was not part of the vote.

9 CHAIR MICCICHE: That's interesting. Okay. Any
10 other questions at this time? Go ahead.

11 STEVE RICE: Since there are actually a couple of
12 other issues here, just for clarification, any comments,
13 problems, pro or con, on the sales trailer and/or the model
14 homes?

15 PETER LILIJEGREN: Other units are more impacted
16 by the sales trailer than I am. It's a problem for a few
17 people in terms of saying where it is, but I can say my
18 specific concern is the long-term impact of that particular
19 building and I don't think it will really be mitigated by
20 putting up the trees. If you do that also it will take some
21 time, and it will also, if you think about it, it will
22 clearly make the backyard there dark all the time.

23 STEVE RICE: Thank you.

24 CHAIR MICCICHE: Commissioner O'Donnell.

25 COMMISSIONER O'DONNELL: Do you happen to know
what was paid for the easement?

1 PETER LILIJEGREN: I believe it's \$300,000.

2 COMMISSIONER O'DONNELL: And the money went where?

3 PETER LILIJEGREN: It's with the Homeowners
4 Association.

5 COMMISSIONER O'DONNELL: And you're a member of
6 the Homeowners Association?

7 PETER LILIJEGREN: Member of the Homeowners
8 Association.

9 COMMISSIONER O'DONNELL: So how do you benefit
10 from the \$300,000?

11 PETER LILIJEGREN: Not determined. And with that
12 there would also be a tax effect, which we're having to sort
13 out.

14 COMMISSIONER O'DONNELL: Has anybody offered to
15 give the money back if they don't build the building there.

16 PETER LILIJEGREN: I'm not aware of any offer like
17 that.

18 COMMISSIONER O'DONNELL: Thank you.

19 CHAIR MICCICHE: That's where I was heading. Any
20 other questions at this point? Thank you. I have no other
21 speaker cards. Are there any other speakers? Adele Guerzon,
22 go ahead.

23 ADELE GUERZON: Adele Guerzon, Villa Felice, and
24 I'm unit #2. I'll just try to shed some light on the vote of
25 the Villa Felice Homeowners Association.

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1 We did know that they wanted to put a dwelling on
2 that when we sold it, and originally they didn't know if it
3 was a one- or two-story, and as we got closer to closing the
4 deal they did say they wanted to put a two-story. But if you
5 talk to all the owners, especially #1 through #4-#5 was not
6 participating for some reason-when we looked at the picture,
7 I don't know how else to say it, pure ignorance, it didn't
8 look bad when you looked at it on paper. And it wasn't until
9 the story poles went up that we went oh my God. So it was as
10 simple as that. I don't know if that's too simple, but we
11 really didn't understand the impact of a two-story until we
12 saw the story poles, and that's why we all ideally would
13 like to see a single-story there.

14 You had another question I can try to answer, the
15 \$300,000. We are low in our reserves, so that money after we
16 pay taxes was to fill our reserves and do some repaving and
17 some other things around the association, so that's why
18 homeowners have not physically gotten money. It's going into
19 the Association for property improvements.

20 CHAIR MICCICHE: Other than perceiving it
21 differently than you see with the story poles, you did agree
22 though that there was going to be a two-story home built
23 there?

24 ADELE GUERZON: I've got to be careful how I
25 answer that. For myself personally, I knew they were going
to put a dwelling there, and towards the end they did say

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1 single-story. But again, I personally did not digest what
2 that really meant until I saw the story poles.
3 CHAIR MICCICHE: Okay. Commissioner Quintana. No,
4 she meant two-story.
5 ADELE GUERZON: Oh, sorry. That was a Freudian
6 slip.
7 COMMISSIONER QUINTANA: I know hindsight is hard,
8 but if you had seen the story poles while the negotiation
9 was going on do you think you would you have voted?
10 ADELE GUERZON: Absolutely not. That never would
11 have passed. In fact, if I knew then what I know now, it
12 never would have passed.
13 CHAIR MICCICHE: I don't know if you heard the
14 speaker originally, but I think he said that it's 22' feet
15 now, and if they went to single-family it would be 17'.
16 ADELE GUERZON: Well, they told me 16', but what's
17 one foot?
18 CHAIR MICCICHE: Again, we heard 17' tonight from
19 the speaker; so let me stay there for a moment. So you've
20 got a 5' differential that you feel would make a big
21 difference?
22 ADELE GUERZON: Absolutely. Well especially again,
23 I'm unit #2, the least impacted, or not as impacted, but
24 even for #4 and #5. I've been in those backyards.
25 COMMISSIONER TALESFORE: Have you seen the
photographs that we were provided with tonight?

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1 ADELE GUERZON: Yes.
2 COMMISSIONER TALESFORE: And how do you relate to
3 those photographs from your house?
4 ADELE GUERZON: Nowhere near as bad. I can see the
5 second story from my backyard, from my top bedroom. Our
6 living areas in the Villa Felice townhomes are all in the
7 back. Our living rooms, our dining rooms, and three of us
8 have bedrooms upstairs. So from all of the complexes—I
9 haven't been in unit #1—but you can clearly see the two-
10 story unit.
11 COMMISSIONER TALESFORE: And what are you feelings
12 about the trailer, because it looks like you might be quite
13 impacted?
14 ADELE GUERZON: Yes, very much. Well of course I'd
15 love to see that trailer somewhere else on the property, but
16 if that's not feasible I did want to see it as least 25'
17 from the wall. The trees will help. I thought the trees
18 would be about 15' high, but 9' or 10' help. You know, we
19 just don't know how long they're going to be there. We were
20 originally told it could be 12 months. And in the paperwork
21 I looked at, they said they were actually not going to
22 remove it until the "occupancy of the last unit" I think,
23 quote unquote. I went to the office to see what they had in
24 there.
25 COMMISSIONER TALESFORE: Would anything make it
better for you?

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1 ADELE GUERZON: If it was not behind us. I mean
2 because our living area is in the back, and we all use our
3 backyards. Stephanie in unit #3 is actually getting ready to
4 redo her backyard. You know, we spend a lot of time out
5 there. We have large yards for townhomes. And just the
6 thought of business being done literally within spitting
7 distance isn't very attractive, especially during the summer
8 months when you're outside. So ideally I would like to see
9 that not there. But if it does have to be there, the further
10 away from the wall the better.

11 COMMISSIONER TALESFORE: And what about the model
12 homes?

13 ADELE GUERZON: Model homes I have no issues with.

14 COMMISSIONER TALESFORE: Time of showing them or
15 anything like that? Being open on the weekends?

16 ADELE GUERZON: No. Not at all.

17 COMMISSIONER TALESFORE: All right. Thank you.

18 CHAIR MICCICHE: Any other questions? Thank you.

19 STEPHANIE CARROLL: Stephanie Carroll. I reside in
20 unit #3. So in regard to the question about how much we were
21 aware of as far as building a dwelling there, and just to
22 reinforce what Adele spoke of, we were aware that was
23 obviously the whole point in wanting to purchase the
24 easement, and that was a question of whether or not they
25 would be able to build there. So we knew that there was
intention to build there.

1 When you're looking at a plan and you're looking
2 down on top of it and you're looking at houses, it's very
3 different than when you're looking at it face to face, as
4 well as really not having a lot of information about what
5 the dimensions would be. So as part of our discussions
6 throughout this, that was not a fine point of detail that we
7 went into as far as what the dimensions of the homes would
8 be.

9 There was talk; maybe it would be a single-story,
10 maybe a two-story. We assumed that it would probably end
11 being a two-story. So it wasn't a matter of bait and switch,
12 we thought there wasn't going to be anything there, because
13 why would they really be wanting the easement and the rights
14 to build there in the first place?

15 But I think it is important to understand we did
16 not go into the details of the dimensions of the homes.

17 COMMISSIONER TALESFORE: And why was it you didn't
18 go into the details? They weren't available?

19 STEPHANIE CARROLL: A lot of things were changing
20 and it was just...

21 COMMISSIONER TALESFORE: So basically you were
22 presented with, "We're going to build a structure?"

23 STEPHANIE CARROLL: Um-hum. That was the
24 intention, yes.

25 COMMISSIONER TALESFORE: A two-story structure?

1 STEPHANIE CARROLL: Yeah, but there was also at
2 one point discussion of whether it was single or two-story.
3 But there was an awareness, yes.

4 CHAIR MICCICHE: Was the final agreement though
5 based on a two-story structure? That's what I thought we
6 heard from the other townhome.

7 STEPHANIE CARROLL: Honestly, I don't know that it
8 was that explicit. But yeah, I think that that was probably
9 what was going to happen, but I don't think it was an
10 explicit agreement.

11 COMMISSIONER TALESFORE: So from your perspective
12 in your backyard, how would you describe this proposed
13 structure?

14 STEPHANIE CARROLL: I think as other people have
15 stated, moving from #5 to #1 you have decreasing. The issue
16 that I would have is that I do have a window that faces out
17 at an angle that the windows would be eye to eye with, and
18 so the issue would be privacy. Not so much of the shade and
19 that overbearing feeling that is felt in units #5 and #4
20 where you feel like there's something on top of you. It's
21 more of a privacy issue. There was a concern originally with
22 the density and whole impact.

23 But I do want to say I do feel that Santa Clara
24 Development has heard our concerns and they've come out and
25 they've talked with us and they've worked with us, so this

1 is not a matter of they're not cooperating. They have come
2 out and looked to see what the impact is to us.

3 But from the original one, yes, I would have very
4 much felt the impact of this shade and the foreboding kind
5 of structure. Now it's more of a privacy kind of eye to eye.

6 COMMISSIONER TALESFORE: So do you think there's
7 more work to be done?

8 STEPHANIE CARROLL: Yeah, I think there could be
9 addressing about with the windows.

10 CHAIR MICCICHE: But what specifically do you
11 think could be?

12 STEPHANIE CARROLL: Obviously a different
13 elevation as far as the stories and stuff. But I think the
14 windows and the way those face. They can look at those.

15 And then you had in addition the question of the
16 sales trailer. I think one of the things why obviously it's
17 more important than the discussion of the home is that I
18 believe the sales trailer is going to be temporary. I'd
19 heard six months was the newest projection and then it would
20 move. So getting some finalization and a little bit better
21 clarity around that would make us feel more comfortable too.

22 CHAIR MICCICHE: Did you hear the Applicant say
23 that the bottom of those windows were 6' up?

24 STEPHANIE CARROLL: Mmm-hmmm.

25 CHAIR MICCICHE: So what's your privacy concern
there?

1 STEPHANIE CARROLL: Well, depending on how the
2 trees impacted, they would be looking...

3 CHAIR MICCICHE: No, but they're saying the person
4 in the window can't see.

5 STEPHANIE CARROLL: Oh, not the windows that face
6 me.

7 CHAIR MICCICHE: Oh, okay. All right.

8 STEPHANIE CARROLL: There's different windows.

9 CHAIR MICCICHE: Two windows that are set back
10 more, you're saying?

11 STEPHANIE CARROLL: That are regular type windows.
12 It's just the ones in the back closer to #5 and #4.

13 CHAIR MICCICHE: I wasn't sure which ones you
14 were. Any other questions? Seeing none, thank you very much.
15 I have no other cards and I see none coming forward, so I'm
16 going to have the Applicant back up for rebuttal.

17 RICK KNAUF: I'd like to address a few things. I'm
18 kind of trying to take a step back to when we first started
19 the conversations with the Association.

20 In December of 2004 we were starting to kind of
21 get close from a theoretical standpoint on our agreement,
22 and we were specifically asked to put together a plan that
23 showed the 34th lot, and that plan is the same house plan
24 that we have today, same shading on the single-story
25 elements, same non-shading on the two-story elements.

1 I'd like to just read from our agreement what
2 specifically we agreed to with the Association when we
3 finalized the agreement for the parking easement. It says,
4 "In the event Buyer closes escrow, then Buyer intends to
5 develop and construct a house on a portion of the original
6 parking easement area referred to in Recital D above, that
7 is adjacent to the parking area referred to in the CC&R
8 amendment. And such house shall be architecturally
9 compatible with the other houses contemplated to be
10 constructed by Buyer on the purchased property. The
11 Homeowners Association acknowledges Buyers right to develop
12 and construct such house as described in the immediately
13 preceding sentence and has no objection to the same. The
14 Homeowners Association on behalf of itself and its members
15 agrees not to object to or oppose the development or
16 construction of such house as described above." That's right
17 out of our agreement.

18 I think what that means is we've really tried to
19 be forthcoming from the start with the Association as to
20 what our plans were, how tall a house it was going to be,
21 how large it was, specifically where it was going to be
22 located. As so we have continued to try to work in good
23 faith to try to address some of the more recent concerns,
24 which have been privacy and massing.

25 I would say additionally as far as not really
understanding how high the house was going to be, in the

1 initial development there were story poles placed on Lot #33
2 right next to this lot, back in 2005. So there was some
3 indication as to how high the house would be if it was
4 similar to the one that was next door to it.

5 Further, to address the R1-8 guidelines, this
6 house with a 10' setback on the side yard, the minimum from
7 understanding in the guidelines is 8', and that can be first
8 and second story. There is no required further setback for
9 the second story. We've got a 10' setback on the first
10 story, a 21' minimum setback on the second story, and the
11 averages far exceed that. These setbacks are actually very
12 similar to the ones the adjacent townhomes have.

13 So we think that the conditions that exist have
14 been generous. We've continued to try to address the privacy
15 issues with regard to moving the windows and modifying the
16 single-story elements and lowering the house.

17 Briefly just to address the parking, because that
18 was brought up, the requirement out there is three spaces
19 per unit, which is 102 spaces. We currently have 3.7 spaces
20 per unit, which is 122 spaces with the revised plans.

21 CHAIR MICCICHE: Thank you. I'm going to ask an
22 odd question here, but based on the objections that seem to
23 be coming now that were agreed upon not to have in this
24 agreement that I think you just read, if they had the
25 \$300,000 and didn't spend it, would you reverse your

1 agreement now based on the objections, rather than put up
2 with this?

3 RICK KNAUF: No. No.

4 CHAIR MICCICHE: Okay. You still prefer to build a
5 home then?

6 RICK KNAUF: Yes.

7 CHAIR MICCICHE: Okay. Thank you. Commissioner
8 Kane.

9 COMMISSIONER KANE: I'd like to know what's at
10 stake, whether Staff could make an estimate, or the
11 Applicant. What's the delta? What's the different between
12 marketing the one-story and marketing the two-story? I want
13 to know what's at stake?

14 RANDY TSUDA: I couldn't give you a guess.

15 RICK KNAUF: Can I just address that I mentioned
16 we've been trying to deal with all these issues up front.
17 We've got some principles. We go out, we try to do what we
18 say we're going to do. We'd like to follow through on what
19 we've asked for and was agreed to initially up front. And
20 we've continued to try to make improvements and address the
21 concerns of privacy and mass.

22 CHAIR MICCICHE: Commissioner Kane.

23 COMMISSIONER KANE: My question is not answered.
24 Is it a don't know or you feel it's irrelevant? I feel it's
25 irrelevant, that if it's of serious impact, well that shades

1 the issue a little bit. I'm wondering what we're going to do
2 if we say yes or no from a financial standpoint.

3 MARK ROBSON: Commissioner Kane, you're looking at
4 me so I think I'll answer the question.

5 CHAIR MICCICHE: Could you state your name?

6 MARK ROBSON: My name is Mark Robson and I
7 represent Santa Clara Development Company.

8 When you look at other neighborhoods in Los Gatos,
9 the setbacks between houses, backyard-to-backyard, are less
10 than what we're proposing here on a two-story element. And
11 so at some level there's a fairness issue here. I mean why
12 as a property owner should we have less rights in terms of
13 the use of that property than you would find in any other
14 neighborhood in town? This is not an unusual situation from
15 an R1 standard, two-story-to-two-story in a backyard; you'd
16 have 40', windowpane-to-windowpane. We've got 75',
17 windowpane-to-windowpane, on the second story. It's much
18 greater than you'd have in a standard R1-8 subdivision, and
19 I think that that's important to know. I think what we have
20 is reasonable.

21 Will there be a loss in revenue? Of course there
22 will be a loss in revenue. Do I know how much? No way.

23 We've developed at least nine plans for 33 lots,
24 and this comes after a long, long process of carefully
25 working with the neighborhood. Many of you on this planning
commission remember having study sessions, having General

1 Plan hearings, having all kinds of things to make it very
2 clear what we are intending to do all the way along and all
3 the changes that we made in this project along the way. And
4 we've got nine plans for 33 houses and gosh knows how many
5 elevations we have. We might have 18 elevations.

6 You've got a tremendous amount of variety, and to
7 ask us to do a single-story home here. If it were no home or
8 a single-story home, what's my answer? Well what do you
9 think my answer is? My question back to you though is what's
10 fair to us when you look at a standard neighborhood and what
11 the expectation is with respect to setback?

12 And when you look at privacy, and forget about who
13 knew what at the beginning. I think we were very, very
14 clear. You had 33 houses. You had one single-story home; the
15 rest of them were two stories. And that was very clear and
16 we spent a lot of time with lots of study sessions and lots
17 of meetings with the neighborhood and we were very clear
18 from day one what we were planning to build out here. And
19 all the homes that surround us I might want to add are all
20 two stories. None of those homes are single-story, none of
21 them. They're all two stories.

22 And this comes after a long process that we tried
23 to be as careful as we could along the way to make it as
24 clear as we could. We didn't have an agreement. Back in
25 March and April when this came before you we didn't have the
property in a position where we could make it part of the

1 original application legally because we didn't control it.
2 So all we could do was work as carefully as we could with
3 Staff and say this is our intention. If we're successful and
4 we can buy this property, this is what we want to do.

5 But all that aside, you still wind up going back
6 to your question. What is the expectation of these
7 neighbors? When they go home tonight, somebody's going to be
8 disappointed one way or the other, and I think because of
9 privacy and mass, and I think that we've got a plan that
10 from a typical standpoint of what you see around town I
11 think is better than what you would typically see in terms
12 of the setback. When you look at an R1-8 standard, this is
13 better and I think that you've got to keep that in mind.

14 We've eliminated the windows. I mean they're clear
15 story windows. They add light but they're not going to
16 affect privacy. You've got a single-story element that, as
17 Mr. Knauf said, is 10.5' tall. It is low. I mean these are
18 relatively low heights and we've made substantial changes to
19 our plans along the way.

20 So when you wind up looking at me, what is the
21 impact? There's an impact. There's no way for me to tell.
22 We've got to develop a whole new plan, and I think that this
23 is after a long process to trying to be fair and reasonable
24 along the way.
25

1 CHAIR MICCICHE: I think you've answered the
2 question, Mr. Robson. Are there any other questions?
3 Commissioner Rice.

4 STEVE RICE: You said the story poles were up on
5 Lot #33. When did those go up roughly?

6 MARK ROBSON: When the project was approved, both
7 at the Planning Commission and at the Council.

8 STEVE RICE: Were they still up when you were in
9 negotiations with the Homeowners Association for what is now
10 Lot #34?

11 MARK ROBSON: Yeah, the negotiations date back to
12 2003, and as Mr. Knauf mentioned, they picked up their pace
13 December 2004, and the approval was April 2005.

14 STEVE RICE: So the story poles were up on #33
15 while you were negotiating for #34?

16 MARK ROBSON: Yes.

17 STEVE RICE: Thank you.

18 CHAIR MICCICHE: Commissioner O'Donnell.

19 COMMISSIONER O'DONNELL: The agreement Mr. Knauf
20 was reading from, that's with the Homeowners Association?

21 MARK ROBSON: Yes.

22 COMMISSIONER O'DONNELL: And so it's signed my
23 officers of the Association?

24 MARK ROBSON: It was signed by the officers, and
25 we had a lot of meetings with the Association to walk
through what we were doing.

1 COMMISSIONER O'DONNELL: Let me just ask you a
2 couple of questions. Who are the two people who signed? What
3 did they own? Okay, so there's one, and I think that was
4 unit #2.

5 MARK ROBSON: Yeah. Adele, did you sign? Peggy?

6 CHAIR MICCICHE: Excuse me; we've got to direct
7 things through the podium here.

8 MARK ROBSON: Commissioner O'Donnell, I don't
9 recall, other than Stephanie Carroll who spoke.

10 COMMISSIONER O'DONNELL: I'm just trying to
11 understand. As somebody has pointed out, I am a lawyer and
12 I'm stuck with that. But how many homes are there in the
13 Homeowners Association?

14 MARK ROBSON: Fourteen.

15 COMMISSIONER O'DONNELL: And it's your
16 understanding they voted on this and at least by a majority
17 approved this?

18 MARK ROBSON: Yes.

19 COMMISSIONER O'DONNELL: And at the time this
20 agreement was executed, was the Homeowners Association
21 represented by counsel?

22 MARK ROBSON: Yes.

23 COMMISSIONER O'DONNELL: Thank you.

24 CHAIR MICCICHE: Commissioner Quintana.

25 COMMISSIONER QUINTANA: I'm back to the agreement.
Could you explain what Recital D contained?

1 MARK ROBSON: Let me get it, please. Hold on. We
2 just have the Staff Report. We don't have a copy of the
3 agreement, so I don't recall.

4 COMMISSIONER QUINTANA: So we don't know what's in
5 there?

6 MARK ROBSON: Correct.

7 COMMISSIONER QUINTANA: Okay, because what was
8 read to us simply said "and such house shall be
9 architecturally compatible."

10 MARK ROBSON: With all the other houses, because
11 at the time we wanted the flexibility to put whatever plan
12 we wanted to put on that lot depending on what fit the best,
13 and as Mr. Knauf said, he thought that the plan that we had
14 there fit the best.

15 COMMISSIONER QUINTANA: A one-story house could be
16 architecturally compatible as well, is that not correct?

17 MARK ROBSON: I think what we're trying to say is
18 that when you looked at the neighborhood and all the
19 exhibits were two-story houses, we were trying to tell them
20 that we were planning a two-story house there.

21 COMMISSIONER QUINTANA: Okay. It doesn't
22 specifically say that.

23 CHAIR MICCICHE: Mr. Kane, you had another
24 question?

25 COMMISSIONER KANE: Thank you for your answer.
It's very helpful, and I know there's been a duration that's

1 substantial, and there's been a lot meetings and study
2 sessions.

3 I walked the property back in March or April and
4 saw the houses on the crest line and we moved them back 3',
5 and I saw #34; I was overwhelmed by that. We had great
6 discussions on intensity and density. I'd never seen #33
7 before and that's what I'm asking you to appreciate. I mean
8 #34. What was the one that was up, #35?

9 MARK ROBSON: No. We have 33. We're asking for a
10 34th.

11 COMMISSIONER KANE: So #33 was up?

12 MARK ROBSON: Yes.

13 COMMISSIONER KANE: That's what we talked about on
14 mass and density. I'd never seen #34 before, and when I did
15 see it for the first time it was overwhelming. So that's the
16 nature of my concern. It's not to say that you haven't been
17 cooperative and that it's been a long process, and I do
18 appreciate that and your answer. It's just I'd never seen
19 #34 before and now I'm wondering what to do about that
20 because that's new to me.

21 MARK ROBSON: It was in the Staff Report as an
22 exhibit. I mean your staff did have that in there in the
23 discussion.

24 COMMISSIONER KANE: Again, thank you for your
25 answer.

1 CHAIR MICCICHE: Any other questions at this time?
2 Commissioner Quintana.

3 COMMISSIONER QUINTANA: The orientation of the
4 outdoors on this house is towards the west, is that correct?

5 MARK ROBSON: It's to the north and to the west.

6 COMMISSIONER QUINTANA: But predominantly to the
7 north.

8 MARK ROBSON: Well it's both. You've got a
9 backyard area here and also along here, but you also have a
10 courtyard along here, so effectively it is a backyard-to-
11 backyard orientation if you will, because you've got a
12 dining room here and a living room here and a courtyard in
13 between, and so we're expecting there to be some outdoor
14 activities right here.

15 COMMISSIONER QUINTANA: Okay, I think you just
16 said exactly the way I'm looking at it. It is a backyard
17 orientation and as opposed to the 10' setback is for a side
18 yard, not the actual living yard where you do most of your
19 work. So essentially this is a backyard-to-backyard
20 orientation, but it doesn't have the same setbacks as if it
21 were a single-family house back to back.

22 MARK ROBSON: But wouldn't you agree that the two-
23 story element-to-two-story element here, it's 75'? This is
24 where the two-story element starts right here, and this is
25 where theirs is right here, so it's got a wide...

1 COMMISSIONER QUINTANA: I'm sorry, our Staff
2 Report says that from building to building it's 34'.
3 MARK ROBSON: That's from our single-story. The
4 gray is a single story here and here.
5 COMMISSIONER QUINTANA: And I think it also says
6 that building... I'm not sure about that, so I'm not going
7 to say. But previously when I asked what the building-to-
8 building on the south and north are, that was 75'. That
9 wasn't to second story, that was just building-to-building.
10 MARK ROBSON: Right, because we've got single-
11 story elements along here, and so I think that's one of the
12 alternatives that you guys are talking about is why not a
13 single story? And that's one of the arguments that we're
14 trying to make, that you've got a huge...most of the portion
15 of this building that's closest to these neighbors is
16 single-story along here.
17 COMMISSIONER QUINTANA: I think the issue--and this
18 really should come in the comment period--but since you keep
19 talking about single-story-to-single-story and two-story and
20 setbacks compatible with usual R1 zoning--I think the issue
21 is the visual impact, and that's the issue that has to be
22 addressed.
23 CHAIR MICCICHE: Is that a statement now or a
24 question or what?
25 COMMISSIONER QUINTANA: That was a statement.
CHAIR MICCICHE: All right. Any other questions?

LOS GATOS PLANNING COMMISSION 1/25/2006
Item #1, 15350 Winchester Blvd.

1 COMMISSIONER TALESFORE: I visited the site today
2 from both your Villa Felice site and also the backyard of
3 #5, and I would like to ask you, I'm hearing all the setback
4 number of feet and everything, and yet can you answer me
5 that when I'm standing in the backyard of #5, even though I
6 see the single-story unit and that doesn't bother me so
7 much, I'm still overwhelmed by what I'm seeing. It almost
8 looks like I'm standing two arm lengths away from
9 everything. I can't quite, even though you say it's 75', it
10 looks a lot closer. Could you answer that for me? Why would
11 that be?
12 MARK ROBSON: I don't know. We've taken it off the
13 plans. I think the distances are accurate. That's from
14 building-to-building, and so when you step into the backyard
15 you're lessening that, but maybe by 10'.
16 COMMISSIONER TALESFORE: Okay, so I think you
17 answered the question.
18 MARK ROBSON: Okay, well the 75' is from right
19 here, from these windows. This portion of the windows are
20 the clear story windows, so those are slightly closer, but
21 it's, I don't know, 50'.
22 COMMISSIONER TALESFORE: It's quite a wall that
23 I'm seeing. Anyway, I have another question for you, and
24 that is the trailer. Is that for sales only, or will you
25 have security in there?
MARK ROBSON: Sales only.

LOS GATOS PLANNING COMMISSION 1/25/2006
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1 COMMISSIONER TALESFORE: And the hours? I didn't
2 see it.

3 MARK ROBSON: I don't know that we've stated the
4 hours yet. Typically it's 10:00 to 5:00 weekends, noon to
5 5:00 weekdays.

6 COMMISSIONER TALESFORE: Thank you.

7 CHAIR MICCICHE: I think I'll close the public
8 hearing and open this up to the commissioners. Thank you.
9 Commissioners, we can either have comments, questions of
10 Staff, or a motion.

11 STEVE RICE: Question of Staff. Do we handle this
12 as three separate motions with the house itself, the model
13 homes and the sales trailer? Is it three issues to us, or is
14 it all one? Or is it our choice of how to handle it?

15 ORRY KORB: It really is your choice of how to
16 handle it, but given that I think there's some confusion on
17 some of the issues, maybe you should consider looking at
18 them individually and taking care of the easy ones first.

19 CHAIR MICCICHE: Comments, motion, or questions of
20 Staff.

21 COMMISSIONER QUINTANA: Well my question is are we
22 going to do it issue by issue, in which case I will save my
23 question on the right issue.

24 CHAIR MICCICHE: Our attorney has responded that
25 we should handle this issue by issue and try to do the easy
ones first.

1 COMMISSIONER QUINTANA: And we can make separate
2 motions?

3 CHAIR MICCICHE: That's what I understand.

4 COMMISSIONER QUINTANA: I think I more or less
5 heard pretty much consensus as far as the trailer and the
6 model homes go.

7 CHAIR MICCICHE: Would you like to ask for a
8 consensus? You can ask for it before a motion if you like.

9 COMMISSIONER QUINTANA: I'm going to make a
10 motion.

11 CHAIR MICCICHE: All right, make a motion.

12 COMMISSIONER QUINTANA: I move to approve the
13 sales trailer and the model homes with these additional
14 conditions. Give me a minute. I'm trying to find my notes
15 that I wrote during the meeting and that piece of paper
16 seems to be hiding. Okay, I'm going to do this from rote
17 because I can't find the conditions. But the condition
18 indicates that the sales trailer will be moved after the
19 final occupancy of the final dwelling. We heard from the
20 Applicant I believe that the trailer will be removed after
21 the model homes are built, so I would like to change that
22 condition.

23 ORRY KORB: So that would be a modification to
24 Condition Six of Exhibit K?

25 COMMISSIONER QUINTANA: Yes. That that be changed
to read, "The trailer shall be removed upon the completion

1 of the model homes." In addition I'd like to add that the
2 trailer be set back as far as possible from the wall to the
3 adjacent property. That's all I can remember right now.
4 CHAIR MICCICHE: Do we have a second?
5 COMMISSIONER TALESFORE: I second.
6 CHAIR MICCICHE: Do we have any comments on the
7 motion at this point?
8 RANDY TSUDA: Before you vote on that, also
9 include reference to the findings contained in Exhibit I.
10 Those are the considerations for the Site and Architecture
11 application.
12 CHAIR MICCICHE: So done.
13 COMMISSIONER QUINTANA: So done.
14 CHAIR MICCICHE: Any comments or other questions
15 on the motion at this point? Seeing none I'll call the
16 motion. All in favor? Against? It moves 7-0. We can start
17 discussion on the house item. Any comments first or
18 questions of Staff?
19 COMMISSIONER QUINTANA: Question of Staff.
20 CHAIR MICCICHE: Go ahead.
21 COMMISSIONER QUINTANA: The Conditional Use
22 Permits says that once there is an agreement that the
23 Planning Commission may approve another unit. My question
24 has to do with statements that have been made that since
25 there's already an agreement made between the homeowners and

1 the developer that it appears that the Commission is bound
2 by that agreement to approve an additional unit.
3 CHAIR MICCICHE: No, nobody said that.
4 COMMISSIONER QUINTANA: Okay, so the fact that
5 there's this agreement between the developer and the
6 Homeowners Association...
7 CHAIR MICCICHE: Irrelevant.
8 COMMISSIONER QUINTANA: ...should not affect our
9 discussion or decision on the land use issues involved.
10 CHAIR MICCICHE: I think that's apparent. We
11 didn't sign the agreement.
12 COMMISSIONER QUINTANA: Yeah, I'm not asking the
13 question of you, I'm asking it of Staff.
14 CHAIR MICCICHE: I answered you.
15 COMMISSIONER QUINTANA: Yes, you did.
16 RANDY TSUDA: The application still requires
17 approval of an amendment to the Planned Development, which
18 is a legislative action and is a change to the zoning and it
19 requires the approval of the subdivision application and
20 still requires approval of an Architecture and Site
21 application.
22 COMMISSIONER QUINTANA: Second question. Is the
23 Planning Commission making a recommendation on this?
24 RANDY TSUDA: Minor amendments to PDs are
25 approvable by DRC and this case referred to the Planning
Commission.

1 COMMISSIONER QUINTANA: Okay.

2 CHAIR MICCICHE: Questions of Staff?

3 COMMISSIONER O'DONNELL: We were just given sort
4 of an either/or, which I don't think is the choice here. I
5 think we can take into consideration the agreement; we are
6 not bound by the agreement.

7 CHAIR MICCICHE: Right.

8 COMMISSIONER O'DONNELL: I think when one sees
9 story poles we could take into consideration that it's very
10 hard to imagine what something is going to look like until
11 you see the story poles. And I do take that into
12 consideration. I take that very seriously. On the other
13 hand, it is not binding there either. In other words you can
14 say, "Gosh, that doesn't look very good but I'm going to
15 vote in favor of it."

16 What I find to be more persuasive than not is when
17 somebody who has followed this project as long as this group
18 has followed it, then accepts \$300,000 and signs an
19 agreement and are represented by counsel, and this is a
20 project where only one house is single-story, and both women
21 who have talked tonight said they knew that it was going to
22 be two stories before they closed on the deal, and then they
23 looked at the story poles, I think you can weigh that.

24 So I think it is not to say we cannot consider the
25 agreement. My view is we're just not bound by that
agreement. That's my comment.

1 CHAIR MICCICHE: Any other comments, questions? Or
2 would someone like to make a motion? So Tom has decided to
3 make a motion. Commissioner O'Donnell.

4 COMMISSIONER O'DONNELL: I would move to approve
5 the proposal and make the required findings and
6 considerations as set forth in Exhibit I.

7 The approval would include the approval of
8 ordinance 2141, amendment to amend PD, that's Exhibit M;
9 approve the subdivision application subject to conditions
10 which are Exhibit J; approve the Architecture and Site
11 application subject to conditions Exhibit K.

12 And I think somewhere in this line we probably
13 should say that CEQA has been satisfied and we do recite in
14 the findings on Exhibit I that a mitigated negative
15 declaration has previously been made, and since this was
16 contemplated as possible at that time, the mitigated
negative declaration should apply here.

17 So I think those having been incorporated we have
18 a complete motion, and that's my motion.

19 CHAIR MICCICHE: It sounds complete. Do I have a
20 second?

21 STEVE RICE: I'll second.

22 CHAIR MICCICHE: All right. We have a motion and a
23 second. Comments? Commissioner Talesfore. I'll start here
24 and I'll come down the line.
25

1 COMMISSIONER TALESFORE: I will not be supporting
2 the motion. I think as a Planning Commissioner and as a
3 Commission it's our role that we have to look closely once
4 again at this. This is a maybe; it's not a given. And I have
5 to look and see if there's a compelling reason for this
6 house and what would that be, and it has to be compelling on
7 both sides of the issues.

8 Planned developments originally are designed to
9 range development in a better way for the site so that it
10 doesn't increase any density and it can solve a lot of other
11 problems. I remember wrangling with this density issue the
12 first time around with this, with Villa Felice, and I
13 thought we did a really fairly good job, and now we have one
14 more house.

15 Quite frankly, I understand when people say, "Well
16 I looked at the story poles but I didn't quite understand
17 that." It takes time. Not everybody is very visual and you
18 can't fill in the spaces sometimes. But going out there
19 today and seeing that, I just really feel that there's not a
20 compelling reason to have a two-story structure when it can
21 be in my mind compromised with a one-story. What I heard is
22 that the neighbors wouldn't object to a one-story.

23 Unless it was a huge community benefit, such as
24 another BMP unit, perhaps I would consider that, and with
25 maybe an additional setback, it would be the only way I
could possibly look at this.

1 CHAIR MICCICHE: We have your comment. Commission
2 Kane.

3 COMMISSIONER KANE: Well as I said earlier, it's
4 very difficult to put myself in the position of the owner of
5 #5 and the impact that it would have on me, and the question
6 of land use law, the density, the intensity. It's good to
7 not make up your mind until you come to these hearings
8 because I was persuaded one way when I made this site, and
9 as I said I hadn't seen the poles before. But as
10 Commissioner O'Donnell and Commissioner Rice point out in
11 their questioning, there has been a great deal of due
12 process and people did know what they were doing when they
13 did it and they were represented.

14 CHAIR MICCICHE: Is that it?

15 COMMISSIONER KANE: No, I'm looking for guidance
16 from Staff.

17 CHAIR MICCICHE: For what, a comment?

18 COMMISSIONER KANE: No. Am I going off into left
19 field again, Counselor? I'm going to vote on this thing and
20 I want to express why it is I'm going to vote the way I
vote.

21 CHAIR MICCICHE: I think you have.

22 COMMISSIONER KANE: I think I just did, so I'll
23 leave it there. When Orry starts shaking his head I get
24 nervous.

25 CHAIR MICCICHE: Commissioner Quintana.

1 COMMISSIONER QUINTANA: I think this is a land use
2 issue and it's our responsibility to analyze projects within
3 that context.

4 So I think this is a huge visual impact, less than
5 the original, but still a huge visual impact to two units
6 and somewhat of a lesser impact to the remaining three units
7 #1 through #5. I'm not sure that reducing it to one story at
8 17' or 18' is going to reduce that visual impact and that
9 feeling of having a building looming over you.

10 So in addition, my rough calculations on the
11 distances between the houses is somewhat different. I came
12 up with 40' building-to-building on the first story,
13 compared to 75' for most of the other homes on the north and
14 south.

15 So I'm not going to vote for this. In addition, it
16 doesn't meet the setbacks.

17 CHAIR MICCICHE: Thank you. The only comments I
18 have are just to correct my own thinking. I believed when we
19 passed this PD the first time we were passing 34, subject to
20 an agreement coming along. We knew it. We saw the zoning
21 there before that, so we knew it ahead. So I'm in support of
22 Tom's motion at this point. Commissioner Rice.

23 STEVE RICE: A couple of things that haven't been
24 mentioned in this set of comments.

25 First of all, I think that the tree screen is
going to give far more shadow impact than the house itself.

1 I do believe that the developer has tried to address the
2 privacy issues with the types of windows and that type of
3 thing.

4 I did not have the history of voting on anything
5 dealing with this project before, but I think if you look at
6 it as a whole this drops in there nicely. I came in tonight
7 with the thought that--because having been out there--it is
8 big, and you've done something to reduce it, but it's still
9 a big wall there. But if while we're voting on that whole
10 project am I going to make you drop that one roofline by
11 what maybe 5' or 4'? I don't think so. I think it fits in. I
12 think it's appropriate, and what I've heard tonight
13 persuades me that the Homeowner's Association next door knew
14 what was going on.

15 CHAIR MICCICHE: I think I will call the motion
16 since I've had comments from all. All in favor? All against?

17 CHAIR MICCICHE: Two nos, five yays. Passes 5-2.

18 ORRY KORB: And anyone dissatisfied with the
19 decision of the Planning Commission can appeal the decision
20 to the Town Council. The appeal must be filed within ten
21 days. It must be filed upstairs in the Clerk's office. There
22 is a fee for filing an appeal.