

**REGULAR MEETING MINUTES
SAN RAFAEL PLANNING COMMISSION
OCTOBER 9, 2007**

ROLL

APPROVED

Commissioners Present: Chair Colin, Vice Chair Kirchmann,
Lang, Paul (*arrived 7:29*), Pick, Sonnet

Commissioners Absent: Mills

Community Development: Raffi Boloyan, Principal Planner
Sarjit Dhaliwal, Associate Planner

AGENDA

CONSENT CALENDAR

RECOMMENDED ACTION

1. Minutes, September 25, 2007

CONTINUED PUBLIC HEARING

2. **179 Los Ranchitos Road** – Request for Tentative Parcel Map and Environmental and Design Review Permit to allow the subdivision an existing 1.6-acre property into two lots, with Lot 1 being 39,170 sq. ft. and Lot 2 being a 33,250 sq. ft. flat lot; APN: 175-292-34; Single Family Residential (R-20) District; Toby Hanzl, owner; Lee Oberkamper, applicant; Nos.: S07-002 and ED07-07-031.

Project Planner: Sarjit Dhaliwal

Environmental Review: Categorically Exempt

3. **33 San Pablo** – Request for an Environmental and Design Review Permit and Tentative Subdivision Map for the demolition of an existing 4-story office building and construction of a new multi-level 83-unit residential condominium complex on a 1.9-acre site with associated site improvements and landscaping; APNs: 179-291-59 & -60; Office (O) District; Sequoia Heights Capital Partners, LLC, property owner; Jeff Hutchinson/Monahan Pacific Corporation, applicant; File Nos: ED07-045 and TS07-001.

Project Planner: Raffi Boloyan

Environmental Review: Statutorily Exempt

PUBLIC HEARINGS

DIRECTOR'S REPORT**COMMISSION COMMUNICATIONS**

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PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

APPROVAL OR REVISION OF ORDER OF AGENDA ITEMS

AYES:	Commissioners:	Chair Colin, Vice Chair Kirchmann, Lang, Pick, Sonnet
NOES:	Commissioners:	None
ABSENT:	Commissioners:	Mills, Paul

PUBLIC NOTIFICATION OF MEETING PROCEDURES

Chair Colin explained for the benefit of the audience the Public Hearing procedures to be followed.

URGENT COMMUNICATIONS - None**CONSENT CALENDAR****RECOMMENDED ACTION**

1. Minutes, September 25th, 2007

Commissioner Kirchmann noted a few corrections to the September 25th, 2007 minutes.

Chair Colin asked for a motion.

Commissioner Kirchmann moved and Commissioner Sonnet seconded, to approve the September 25th, 2007 Minutes as amended. Motion carried unanimously. Mill and Paul absent.

AYES:	Commissioners:	Kirchmann, Sonnet, Chair Colin, Lang, Pick
NOES:	Commissioners:	None
ABSTAIN:	Commissioners:	None
ABSENT:	Commissioners:	Mills, Paul

PUBLIC HEARINGS

2. **179 Los Ranchitos Road** – Request for Tentative Parcel Map and Environmental and Design Review Permit to allow the subdivision an existing 1.6-acre property into two lots, with Lot 1 being 39,170 sq. ft. and Lot 2 being a

33,250 sq. ft. flat lot; APN: 175-292-34; Single Family Residential (R-20) District; Toby Hanzl, owner; Lee Oberkamper, applicant; Nos.: S07-002 and ED07-07-031.

Project Planner: Sarjit Dhaliwal

Environmental Review: Categorically Exempt

Sarjit Dhaliwal, Associate Planner, summarized the staff report and recommended that the Commission adopt a resolution for the adoption of a Mitigated Negative Declaration for the proposed project; and adopt a resolution conditionally approving the Tentative Parcel Map and Environmental and Design Review Permit.

Lee Oberkamper, applicant/civil engineer, had no objection to the staff report, but asked that the soils mitigation be modified to permit other alternatives that might be recommended by the soils engineer for repair of the slide. Those alternatives would first be approved by the peer reviewer of the City because there are other methods to repair the slide other than described and one of those might be as satisfactory and suitable.

Chair Colin opened the public comment on this item.

Peter Kamler, representing Margaret Andrews at 185 Los Ranchitos, expressed concern on her behalf for the existing water and sewer lines to be moved off her property, so if there are any future problems she would not be burdened. Also, this is a rural area without a curb and gutter with the road higher than the ground and all the water runs onto 185 Los Ranchitos. There is an 80-foot run before the City's storm drain catches the water and desired some additions to Exhibit 3-5 and Exhibit 3-6 under Item 7 indicating, *"that water will be diverted into the City system prior to it running across two driveways at the end of the 80 feet."*

Mark Rosengarden, Drakes Cove resident, is not clear of the exact height of the house and how close to the property line this house will be located. Also, he expressed that tall trees be planted on the property line. He also expressed concern regarding privacy issues. Chair Colin noted that tonight the Commission is primarily discussing dividing the property into two lots, but agreed to clarify with staff.

Principal Planner Boloyan explained that given this is considered a hillside property, any subdivision of a hillside property requires that in addition to the subdivision plans being submitted that also a conceptual design review application be submitted to show that the subdivision could be built and meet the City standards for setbacks, height, and the resultant lots be developable as well as to show compliance with various Hillside Design Guidelines related to subdivisions. Staff noted that the applicant submitted a conceptual plan to show that the lot is buildable and could meet City standards. They also show a building envelope on the property that provides a 10-foot setback, which would be the side of the new house but to the rear of the property. The house would be setback 10 feet at a minimum and it could be setback further based on design review. From the other side it would be 20 feet from the other property, which is the front house. Staff further noted that as part of considering flag lots, the City has the ability to apply more stringent

setback standards than those typically required for this zoning district, so if the Commission finds that maybe a larger setback in the rear is warranted that could be required and noted on the map, so it would be more restrictive than standard City requirements.

There being no further public testimony on this item, Chair Colin closed the public portion and brought the matter back to the Commission for discussion and action.

Commissioner Kirchmann asked staff whether it is a civil law matter between the adjoining property owners or whether the City should be involved at all in the request to move the existing water and sewer lines. Planner Dhaliwal stated he contacted Public Works and the utility company and basically whatever the utility company requires will be accomplished. It is not clear yet where the water line is located and that is being studied, but the conclusion is that the sewer line is not located on the adjoining property. Also, the water meter in front of the adjoining property will be relocated, if it is required by the utility company, but it is not being required by the City.

Commissioner Pick asked staff if the issue with the adjacent property owner to the north is that the drainage in the public right-of-way is already being burdened, and this project may or may not have some impact, can they craft a condition in that regard. Principal Planner Boloyan responded that given this application is just for the subdivision there is no plan or design of any structure or notation of impervious surface that can be used to determine the amount of drainage generated by the project. The Public Works Department reviewed and added Conditions no. 5 and No.7. Staff explained that when the actual specific development comes in, the applicant must demonstrate that drainage will remain on their own property and take it to an appropriate facility on the street or disburse it among landscaping, which is typically done at development review of an actual structure. Staff further noted that aside from the landslide restoration, there would be no grading associated with this subdivision.

Commissioner Sonnet asked staff if landslide mitigation could occur before the plans are reviewed. Principal Planner Boloyan noted that with landslide repair, they would remove the damaged earth and replace with engineered fill along with appropriate back drains, so it will not create any impervious surface or change the contour of the lot.

Commissioner Sonnet asked if the back drains would add to the capacity. Engineer Oberkamper responded that the area would not generate any additional storm runoff. He explained that water picked up by back drains is subsurface water that flows after rainfall, not increasing water runoff from the property. He further believed that slide repair would not increase the amount of drainage flowing from the property.

Commissioner Lang discussed Public Works Condition No. 7 and suggested a revision by deleting, *“add and/or not divert”* and replace with the word, *“increase”* to state, *“cannot increase drainage onto adjoining properties.”* Principal Planner Boloyan noted that the word *“divert”* is included for a specific reason primarily to prevent individuals from putting direct connections onto an adjoining parcel, so that language is used fairly

commonly by Public Works. Staff recommended stating, “*increase or divert drainage onto adjoining properties.*” Commission agreed.

Commissioner Lang discussed Mitigation Measure No.1 and suggested stating, “*or other engineering solutions with substantially the same level of engineering security.*” Principal Planner Boloyan indicated that the geotechnical report spells out four various recommendations for correcting this landslide, which is contained on Exhibit page 8.12. Staff felt the first method, which is included in the condition, is the most preferred way to correct the landslide. Staff pointed out that one of the conditions is that the soils report and landslide correction methods be peer reviewed by a third party engineer when it comes in for a building permit or prior to grading. Staff believed that should be left to the City’s Land Development Engineer and peer reviewing to establish whether the less preferable solution is acceptable. Staff further agreed to craft some language for the Commission’s review.

Commissioner Sonnet asked staff if this matter will come back to the DRB, Commission or handled at staff level. Principal Planner Boloyan responded that any development on a flag lot the City code requires design review, so at least a Zoning Administrator level review potentially with the DRB depending on design consistency, which would be a noticed process.

Commissioner Paul joined the Planning Commission meeting at 7:29.

Commissioner Pick proposed preservation of the three large existing trees specifically noted on the plans to be conditioned more on a performance measure.

Principal Planner Boloyan explained that the setback at the far west side along the rear property line is considered a rear setback; the setback on the driveway side is considered a side setback; and the front setback is between this property and the existing house.

Commissioner Lang asked if they increase the setback from 10 to 20 feet, is that still manageable. Commissioner Kirchmann responded that it would only leave 50 feet for the total width of the building envelope. Commissioner Pick noted that 10 feet is consistent with the pattern of development and entitlement in the area, so he found the 10 feet adequate.

Commissioner Kirchmann pointed out that in the course of design review, preservation of the trees would be a factor in looking at any particular design. Principal Planner Boloyan noted that the conceptual site plan drawn actually shows that they would provide an 18-foot setback from that rear property line. Staff pointed out that Sheet 1 is the conceptual plan that is required to show that lot is buildable as designed and the proposed structure has an 18-foot setback from the rear property line.

Chair Colin found 10 feet acceptable in regard to the setback. Commissioners Kirchmann and Paul concurred.

Chair Colin asked for a motion.

Commissioner Pick moved and Commissioner Lang seconded, to adopt a Resolution for adoption of the Mitigated Negative Declaration for the proposed project.

Commissioner Kirchmann asked the Commission about modifying the mitigation measure to permit other slide repair alternatives that are determined by the City and the geotechnical review process to be equally effective. Commission agreed.

Commissioner Pick amended his motion in order to revise Mitigation Measure No. 1 to allow the engineer freedom to make an alternative proposal that is equally acceptable to the peer reviewer and City staff; and modify Public Works Condition No. 7 to eliminate, “add and/or” to state, “cannot increase or divert drainage onto adjoining properties.” Commissioner Lang accepted the revisions.

AYES:	Commissioners:	Pick, Lang, Chair Colin, Kirchmann, Paul, Sonnet
NOES:	Commissioners:	None
ABSTAIN:	Commissioners:	None
ABSENT:	Commissioners:	Mills

Commissioner Pick moved and Commissioner Sonnet seconded, to adopt a Resolution conditionally approving the Tentative Parcel Map and Environmental and Design Review Permit with an amendment that the west property line setback of the subdivided lot have a dimension of 15 feet.

Commissioner Kirchmann believed it would be appropriate to have the corresponding changes included in Mitigation Measure No. 1 as well as the Public Works Condition No. 7. Also, he would not be in favor of that motion because he believes it is appropriate to maintain the same 10-foot setback that is reflected through the rest of the neighborhood. Chair Colin concurred. Commissioner Paul agreed with the 10-foot setback.

Motion failed: 3:3 Chair Colin, Kirchmann, Paul opposed.

Commissioner Pick withdrew his amendment in regard to the 15-foot setback.

Commissioner Kirchmann moved and Commissioner Lang seconded, to adopt a Resolution conditionally approving the Tentative Parcel Map and Environmental and Design Review Permit as proposed by staff with the revisions to Mitigation Measure No. 1 and Public Works Condition No. 7 previously discussed. Motion carried unanimously. Mills absent.

AYES:	Commissioners:	Kirchmann, Lang, Chair Colin, Paul, Pick, Sonnet
NOES:	Commissioners:	None

ABSTAIN: Commissioners: None
ABSENT: Commissioners: Mills

The Commission took a short recess at 7:49pm and then reconvened with the next agenda item.

3. **33 San Pablo** – Request for an Environmental and Design Review Permit and Tentative Subdivision Map for the demolition of an existing 4-story office building and construction of a new multi-level 83-unit residential condominium complex on a 1.9-acre site with associated site improvements and landscaping; APNs: 179-291-59 & -60; Office (O) District; Sequoia Heights Capital Partners, LLC, property owner; Jeff Hutchinson/Monahan Pacific Corporation, applicant; File Nos: ED07-045 and TS07-001.
Project Planner: Raffi Boloyan
Environmental Review: Statutorily Exempt

Raffi Boloyan, Principal Planner, summarized the staff report and recommended that the Commission deny the application without prejudice given that the current project design does not fully comply with the City's Design policies. Staff also provided the Commission with correspondence received after distribution of the staff report.

Jeff Hutchinson, project manager, explained that they initially purchased the property with the idea that it would be an office building. They were encouraged by the City to file an application to change the use and place housing on the site. They met with the DRB twice, had a noticed meeting back in the summer and met with a group of neighbors in close proximity and are most impacted by the project as well as met with individuals from the Santa Venetia Neighborhood Association. They feel that due to DRB feedback they received in February they made significant amendments to the project that was in direct response to the DRB comments and the comments received from the neighbors. In August, the DRB provided unclear comments that were not appropriate for design review such as parking and appropriate density. They are before the Commission to receive a decision on what they believe is a policy issue for the City and how the City can meet its housing obligations for the General Plan. Also, what types of sites that housing can be built and what is in the best interest of the public good and in the interest of carrying for the polices and tools that were implemented back in 2004. He then presented the Commission with a powerpoint presentation on 33 San Pablo for their consideration that included the following:

- Monahan Pacific Infill Projects:
 - Fifth Avenue site (Their Headquarters) back in 1997
 - Third Street redevelopment site (Kaiser Facility)
 - Two redevelopment sites in San Francisco
- San Rafael Housing Needs:
 - General Plan Housing Obligation
 - City Policies to obtain this goal:
 - § Rezoning
 - § High range of zoning density

- Civic Center District
- Opportunity for Housing:
 - Infill site
 - Re-use
 - Close to freeway
 - Walking distance to open space
 - Major employers
- Allowable Building Envelope – View to Northeast
- Proposed Project – View to West
- Development Proposals:
 - January 2007
 - June 2007
- Project Proposals and Compliance with Zoning Ordinances
- Design Review – August
 - Comments focused on setback, height, bulk, parking and breaking building in two separate parts
 - Response – Reduced building volume, reduced BMR units

Michael Plaza, architect, explained that the project is substantially in compliance and consistent with General Plan policies, Design Guidelines and Zoning Ordinance. He then discussed massing alternatives and potentially breaking the building into two, which they did not think is the best or most efficient building to design. However, the problem was the proximity of units against neighboring properties and this option only provided no more than 60 to 65 units. They went through a series of iterations and two buildings were not feasible.

Mr. Hutchinson noted that this is not a large luxury project. It does not have a lot of common or amenity space. They have a fitness center and a community lounge. They request a decision on appropriate density from the Commission. He then continued discussing the following information:

- Diminishing Feasibility
 - Propose 83 homes with 67 market rate
 - At 65 units proposed, only 13 BMR units and 52 market rate, not feasible
- Alternative Program & Parking
- Proposed Public Improvements
 - Neighborhood concerns:
 - § Speeding traffic
 - § Narrow road width
 - § Unsafe pedestrian environment
- Proposed Public Improvements:
 - Complete sidewalk
 - Add pedestrian crosswalk
 - Add signage
 - Limit parking to one side only
 - Add speed bumps, if permitted
 - Upgrading parking at open space trailhead

- Conformance with City Policies:
 - 11 of 12 Zoning Ordinance Controls
 - 16 of 20 Application Design Guidelines
 - 65 of 74 General Plan Policies
- Project Benefits:
 - Creating housing
 - Below market rate homes
 - Affordable housing
 - High quality design
 - Green building techniques and materials
 - Green points system
 - Attractive landscaping
 - Preserving mature trees
 - Creating public open space
 - Net decrease in trips
 - Environmentally sound project
 - Much needed public improvements

Mr. Hutchinson believed they have made very good efforts to comply and are at a point where they think there is a policy decision that must be made in terms of how much and where housing is built.

David Grabill, land use attorney, submitted a letter to Director Brown explaining why they are before the Commission. Because this project includes 27% affordable units, the City's discretion is somewhat more certain scribed by State law. The Commission can deny the project under definite limits under State law. In regard to parking, by provided 20% of the units affordable from low to moderate the City must at least provide two concessions or incentives that will make the project more affordable or more feasible and the City indicated that if the applicant is requesting the parking the State statute allows that counts as one concession or incentive and that unfortunately is not the law. If the developer wanted to go even lower than 118 spaces required by State law, then yes they must use one of those two concessions or incentives, but if within the ratio provided under State law with 20% affordable that should not count as one concession or incentives. He added that the statute is very clear in that regard. Also, whether they get one concession or incentive or two, staff has no basis by indicating that since they are doing half low and half moderate the project only gets one concession or incentive, which makes no sense. They believe the developer is entitled to two concessions under State law. He added that this is a great project for people who live and work near the Civic Center to walk or bike to work. He further added that it is a great affordable project.

Darlene Whitlock, W-Trans traffic consultant, study the traffic analysis and specifically looked at the trip generation for the proposed project versus what would be associated with existing office building if fully occupied. However, the baseline against which they compare the project is the office building if fully utilized and this proposed project of 83-units would generate six fewer pm peak hour trips and 41 fewer am peak hour trips. She further noted that in the letter to Mr. Hutchinson from the City's Traffic Engineering

Division indicated that they evaluated the project and did some level of service analysis, which they did based on the previous project proposal that had 36 fewer am trips and one fewer pm peak hour trip, so the project as currently proposed is even less of an impact than what the City's Traffic Engineer evaluated and found that there was no change to the average delay at the three study intersections reviewed.

Chair Colin opened the public comment on this item.

Alex Behrouz, Novato resident, signed up for "*Marin Housing Lottery*" and has dreamed of owning a home, which has been very difficult. His dream is to own a home, not rent. He believed this would be a great opportunity for him and many others. He would save gas, time and energy if this project is built.

Collin Russell, Chairman, Chamber of Commerce Affordable Housing Committee, believed the developer has made great concessions in response to the initial DRB comments. Now, DRB has several new members that have a whole new set of requirements. This seems to occur so often with infill projects and it is hard to build infill projects. This project is composed of more than just official affordable units, but the rest are affordable-by-design. They are not large units and to try and cut the amount of density that DRB requested in August would reduce the number of units substantially. At some point a project becomes not economically feasible. The City is way behind in meeting the required number of units. This is a competent design, very clear and crisp building that is pushed back from the neighbors and it is a large building, but not overly large for the site and it meets all the zoning requirements. He did not understand the DRB's objection other than it is larger than the building currently onsite. He found the amenities of the project excellent. The landscaping plan is sound and massing is quite intelligent for this building. He further desired intelligent planning for the future.

Mary Feller, Santa Venetia Neighborhood Association, expressed concern for traffic because they are already at a LOS F and traffic backs up to the 7-Eleven stoplight. She expressed concern for emergency vehicles traveling in and out of the area. The conditions have changed dramatically in the area from the school expansion; so all traffic travels into the community and then heads west. The new traffic pattern associated with this development will be a different traffic pattern. This project has a lot of benefits, but she is very concerned of what has become a dangerous condition in their community. Traffic analysis should be made on real time current use. LOS C traffic is misleading. She further noted that this is a very hot topic at the Countywide Plan meetings.

Tad Inouya, President, Santa Venetia Neighborhood Association, expressed concern for traffic congestion as well. He then read a letter into the record from Alice Watkins, which he submitted to staff opposed to this development due to traffic congestion and safety concerns.

Fara King, San Pablo Ave. resident, welcomed affordable housing closer to her job, so she can continue walking to work at the Civic Center. She understands the traffic congestion issues, but once all construction in the area is completed traffic will improve.

Pat Cunningham, San Pablo Ave resident, opposed the bulk and mass of this development. She expressed concern for privacy as well as her sunlight being impacted.

Jeanette Erven, San Pablo Ave. resident, did not object to development, but objects to the mass, size and amount of units that is not appropriate for the neighborhood. It will impact the traffic greatly as well as safety. She desired affordable housing, but this amount of units in one area is not appropriate and the units should be spread out throughout the City. She welcomes a good design, but not a four-story massive design. She expressed concern for noise impacts as well. She further asked the Commission to reject this proposal.

Elisa Giambastiani, read the following letter into the record from Donna Bjorn, President of the League of Woman Voters as follows: *“The League of Woman Voters continues to be a strong supporter of affordable housing, because we believe that people who work in a community deserve to live there. We also believe that developing infill housing within existing neighborhoods is an environmentally sound policy. We are supporting the development at 33 San Pablo Avenue, because we feel it is an excellent example of an effective re-use of an existing developed property. In order to meet San Rafael’s housing goals, it will be necessary to redevelop some underutilized properties. This site, which has been “found” by the developer, is a bonus for the City, and it comes with a number of attractive benefits. The Sequoia Heights Homes project will provide 16 below-market rate-housing units, and 67 units at market rate. This development is not designed to be a luxury project, so the size and pricing of the market-rate units will make them “affordable-by-design” to a wide range of prospective homeowners. This is an exceptional infill project because of proximity to transit and major Marin County employers. The County of Marin is our largest employer, and approximately 50% of county workers commute in from other locations. There are over 10,000 jobs in Terra Linda, including major employers like Kaiser, Autodesk, and Sutter health. These condominiums will be very attractive to local workers as well as to first-time homebuyers. Other advantages of this project include underground parking, green building techniques and materials and its quality design and construction. It will be a vast improvement over the commercial building that currently occupies the site. Marin County’s future for housing appears to be infill projects like this one. We encourage the Commission to approve this superior infill development.”*

Ms. Giambastiani then stated that traffic on San Pedro is backed up, but once on San Pablo at the stoplight the traffic disbursts quickly, so traffic down San Pablo will not impact the existing traffic on San Pedro. If they want the private sector to provide affordable housing they must make a project and the project must be viable. In the future, the City may need to be a little flexible, especially in design requirements.

Carol Harris, representing, Kaiser Permanent, discussed recruiting issues and 65% of employees commute from out of the County. Between 40 to 55% of employees make less than \$70,000 per year, so workforce housing is incredibly important to Kaiser. Large employers are concerned about housing and hoped the Commission looks favorably upon

projects like this.

Jon Mosher, Tarrant Court resident, stated that this is an exceptional proposal because it is the first high-rise residential building. He desired more 3-bedroom units. He noted that balconies should face corridors to reduce noise impacts. Public safety and SMART Train Station will come to this area, so this should be SMART growth. He desired plans for bicyclist, pedestrians and Safe Routes to Schools (SR2S). He believed time to plan is now. He recommended that they make the road safe first. He suggested a shuttle service that loops to the mall, high schools and elementary schools. This is a unique project and the area is changing drastically and people should have a say. Now is the time to plan this community to improve roadways and secure rights-of-way to SR2S. He further recommended that the demolition permit not be issued.

Paula Mcamee, Tarrant Court resident, strong proponent for affordable housing, but she has not seen an elevation drawing of the proposed project and how it will sit on this land. He questioned whether the knoll would be graded. The main concern is traffic and desired a traffic EIR. The concern is San Pablo Avenue on the south side of San Pablo where Meadow Oaks development is located and where parking is a concern. Traffic, parking and safety of the children must be addressed. She recommended an affordable apartment complex. One-bedroom units of about 800 sq. ft. is a pretty good size unit and questioned how affordable these units are for an individual making less than \$75,000 per year.

Suzie Davis, San Pablo Ave. resident, expressed concern for safety, traffic and access. She suggested a separate access and then the project might be more reasonable to accept.

Chuck Crocciatore, Glen Terrace resident, stated that the Civic Center is a gem and located in a wonderful area. The fact that the developer is not working with the DRB and not receiving their approval is unacceptable. The design must be done correctly. This is not a question of killed by committee, but the residents have a stake in their community. He opposed the project. It is too large to place on that narrow street and the proposals to mitigate are not adequate. He desired a better plan that integrates this entire project into the community. 948 sq. ft. apartment is not for a family, it is not large enough. This does not go far enough in addressing the needs of affordable housing. He then asked the Commission to consider this proposal very carefully and send it back to the DRB for their review and approval.

Trent Erven, San Pablo Ave. resident, commended Monahan Pacific in trying to provide affordable housing in the community. He expressed concern for his property values and quality of life diminishing from this development. This is a perfect opportunity for Monahan to show corporate responsibility by not trying to circumvent the DRB process. This should be sent back to the Board for their review and approval.

Tom Monahan, applicant, believed the Commission is caught in a catch 22 dilemma; this project is code compliant and meets all zoning ordinances. They are providing 16 units of affordable housing that will sell in \$200,000 price range and market rate housing well

under the average price. They attempted to work with DRB carefully. Originally, they proposed 93-units and after feedback from the DRB and neighbors they redesigned the project a couple of times at considerable expense, then DRB reviewed 83-units and still indicated that it was too bulky, yet it fits all requirements of the City. They do first class award winning projects. In their opinion, they must review from a policy standpoint. No one wants affordable housing in their backyard, so it is difficult to achieve. San Rafael is behind in generating affordable housing, and there are few places to locate housing of any density. They proposed a project that fit very close to the State's density rules that allowed 97-units and they had the appropriate amount of parking and appropriate amount of affordability, but they designed 93-units voluntarily, which was brought forth. His land use attorney indicated that according to State code, if they built a project that had 95 or 97-units it would have 16 affordable units and the rest would be market rate and with that project incentives and concessions would be earned and that would be the project they would bring forward, then the City's flexibility is less and less. They reduced the project, pulled it in away from neighbors and squished it into the hill and volunteered to improve the under improved street. Traffic engineers studied the traffic problems. They are very frustrated because they are trying to deliver back to the community what the General Plan indicates. DRB has policy issues that they cannot address. The alternative at 83-units is as good as it gets and the alternative to the 93-unit proposal would be a 97-unit proposal that is State code compliant and achieves those levels of affordability, which would bypass DRB and the parking ratios. He hoped the Commission allows them to move forward and not be sent back to the DRB. He asked the Commission to fulfill their rulebook. They have tried to honor the process, but they are stuck at this point. He asked the Commission for their support tonight to move this project forward.

Robert Dolin, San Rafael resident, opposed the project. He believed the developer could make a profit at a lower density. In regard to circulation and traffic, decisions must be made on the actual traffic that occurs. He further added that conditions do not allow for 83-units at this site.

Susanne Elaione, San Pablo Ave. resident, believes this is a hard transition for the neighbors. She supported affordable housing, but at the least impact on her neighborhood. She believed improving the sidewalk condition would be beneficial. Eliminating parking on one side of the street is not appropriate and requested that parking remain. She further opposed speed bumps.

Commissioner Kirchmann asked staff if site is subject to the Hillside Design Guidelines. Principal Planner Boloyan responded that it is not subject to the Hillside Design Guidelines because the slope is not great enough.

Commissioner Kirchmann asked if mixed-use alternatives were studied. Mr. Hutchinson responded that it was considered, but not a good idea because it is not a great location for retail. He explained that office would require more surface parking and they are dedicating as much to residential. They are creating open space and landscaped areas for residents and given those constraints, mixed-use is not appropriate.

Commissioner Kirchmann asked if two concessions are being requested. Mr. Hutchinson stated that staff indicated that they do not qualify for two concessions. However, they have opposing opinions to that and to the fact that they are being required to use one concession to comply with the State's parking requirements. They are only required to use a concession if parked at a ratio less than the State requires. Commissioner Kirchmann asked if procedural requirements run a foul with State law should those apply or not apply. Mr. Monahan responded that they are asking for one concession. That concession would be related to height and bulk in regard to design review issues and staff is applying that concession to the parking ratio. They believe they are already compliant with the parking ratio, so they are only asking for one concession.

Commissioner Kirchmann asked staff if this property could be fully occupied as office space. Principal Planner Boloyan responded in the affirmative. Staff noted that it would generate more parking demand than the proposed development.

Commissioner Lang asked their position on the height and bulk concession. Mr. Monahan responded that they comply with height and bulk. The project fits within the setbacks, height limit and building envelope. They eroded the size of the building as much as possible to make the project viable. Commissioner Lang clarified that a second concession is not needed since they meet the State's requirements. Mr. Monahan views the project in that way and DRB asked them to erode the project further even within the height limit.

Commissioner Lang stated that if they accepted staff's analysis that a second concession is needed for height and bulk and the process requires a pro forma financial filing, what would be their position. Mr. Monahan responded that the right size of the project is the 83-units with extra parking proposed that is a middle ground compromise solution. If they go through a process with financial disclosure and pro forma analysis, if they did that they would go for the larger project with 97-unit maximum allowable with less parking and a bulkier and larger project, so they would re-apply. Commissioner Lang clarified that to accept staff's proposal they would re-apply with the larger project. Mr. Monahan responded in the affirmative. They are trying to compromise rather than hold to the letter of the maximum size that the project could be under the State's density bonus.

Commissioner Kirchmann asked if the City approved the current project would it be able to be built. Mr. Monahan responded in the affirmative.

Commissioner Paul asked about lot coverage between the January and June proposal, so with more units they had smaller lot coverage. Mr. Hutchinson agreed. The difference between the January and June proposal is that they squashed the building down and stepped it back further and took the building further back beyond the hillside. They lowered the building and stepped it back. So the June proposal is less of a setback than the January proposal.

Attorney Grabill clarified that they do not agree with staff's interpretation. If they were to go for a lower parking ratio than provided in State law, then a concession is used. Since

they are providing at least 130 spaces, which is more than State law requires, they do not have to use a concession or incentive.

Commissioner Sonnet stated that if 83-units is viable and 65 is not, is there some number of units between 83 and 65 that is economically viable. Mr. Hutchinson stated that they have not been given clear and succinct information from DRB. The difficulty is that the information provided has been very vague. Given the 30 minutes of back and forth there is a general objection to density, so they cannot respond to a project that adequately addresses the DRB's concerns. In terms of a project that is feasible and sustainable, the cost of land is expensive, construction is expensive, and so they are at a breaking point right around 80. The alternative proposed tonight sacrifices two units to make that further concession. Mr. Monahan does not mind going back to DRB with project level approval that the DRB is instructed by the Commission to approve landscaping, colors, etc. They cannot go back without a mandate. The building has a certain bulk to it and they cannot eliminate any more chunks and have a viable project. 97-units is a much better project for them. In order to satisfy parking issues, they expanded the underground parking garage, which is not required. He feels they are very much at a tipping point.

Chair Colin asked about the possibility of another access. Mr. Monahan would love to have a second access, but it is along County owned property. Mr. Hutchinson noted that with the first application there were two access points to the garage, which became a concern for neighbors, so they limited access to one point. In regard to another access point to the property, they are stuck since the County owns the land and they only have one street frontage.

Chair Colin asked about headlight glare. Mr. Hutchinson responded that there are light poles in the parking lot and with the proposed project those light poles would not exist. They would create an 8-foot sound wall and all lights would be oriented away, so lighting condition at night would be better and less intrusive. They are creating a planting buffer as well.

Commissioner Lang asked if the setbacks were changed would that help in articulating space. Mr. Hutchinson believed so, but it would eliminate the landscape buffer. They must maintain fire access, so that must be explored.

Commissioner Pick clarified with regard to the building envelope if there is any height that is being left on the table. Mr. Hutchinson responded in the affirmative. They created stepping and left height on the table. In regard to the far right at the upslope, they are up against the height limit at that point.

Chair Colin asked staff about traffic analysis. Principal Planner Boloyan responded that the City's Traffic Engineer reviewed the methodology and plugged that data into the City's traffic model. The traffic model is a living model that is continually updated. They ran calculations for the three intersections and all three were operating at or below acceptable standards. It was using historically data from the office use and comparing that data against the proposed residential use and plugging that into the current traffic

model. It is updated weekly or daily. The traffic model includes any approved, but not yet built project, but also includes entitled projects.

Commissioner Sonnet asked staff if 83 units is an adequate situation on San Pablo. Principal Planner Boloyan responded that the City reviews onsite parking only, including guest parking. Commissioner Sonnet asked staff about the volume of traffic in and out on San Pablo and if that is a feasible situation due to the narrow street. He asked staff if the City looks at width. Principal Planner Boloyan stated that it is considered. The total daily trips will be less than a complete office building and trips would flow with primary direction of traffic. Is it not an ideal street, but new proposed conditions would not be any worse.

Commissioner Lang asked staff if they could allow additional height. Principal Planner Boloyan stated that the City has height bonuses. It may be allowed for certain types of projects. For this area, there is no height bonus listed. There is a citywide height bonus at 12 feet that applies to hotels. The options would be: 1) to request and qualify for a second concession to deviate from City height standards; or 2) request a variance.

There being no further public testimony on this item, Chair Colin closed the public portion and brought the matter back to the Commission for discussion and action.

Commissioner Pick noted that DRB was limited to one round of comments from each member. He noted that 90% of DRB's attention was related to traffic, parking and density concerns. He attempted at the end of the meeting to discuss NH-2, which would be a concern among the neighborhood, but his input was not considered, so he understands the frustration. However, there are little slivers of DRB tabled items such as privacy, decks that appear as a box, and to incorporate sensitive transitions in height. He asked members of the Board after the meeting off the record to comment on aspects of the design and there was considerable support for many design features, but all off the record. There were some tangible comments that DRB tried to suggest, but due to the focus on parking, density and traffic they were distracted. Given an opportunity to address the issues of design it might be productive. He then desired some quick agreement in regard to what they are trying to do tonight.

Commissioner Lang agreed to discuss their conclusions and then send the matter back to DRB. She discussed the revised parking proposal with 152 parking spaces, and it seems to alleviate the parking issues. Commissioner Paul is fine with parking as presented. He believed it is a benefit that the applicant has a scheme to provide more parking because they are looking at State requirements, but it is in the developer's best interest to provide adequate parking. Commissioner Kirchmann stated that two units are lost for those extra spaces and as a policy consideration and he would go along with the mandate from Sacramento and maximize the housing opportunities. Commissioner Paul stated that more and more people have vehicles, but the benefit of this project is that it is close to transit, major employment and less dependent on vehicles.

Commissioner Pick stated that if primary objection is one of massing and lack of

articulation, then maybe some parking spaces could be traded for more articulation.

Commissioner Sonnet believes mass and articulation is a concern and how that relates to the neighborhood must be addressed. This is a great project, affordable-by-design and close to transit, so there are several positive elements. He is uncomfortable about the process in regard to not receiving input from the DRB. He is concerned about all the specifics and details that the DRB did not have a chance to review. He would feel comfortable if this matter went back to the prescribed process so that all elements are addressed. He understands the idea of complimenting the Civic Center because it is a gateway to the City.

Commissioner Paul noted that DRB indicated that due to massing and scaling, the way to solve that was by the reduction of density, parking and mass. He believed density is okay. In regard to relating to the Civic Center, he did not understand because there is no backdrop. If they feel density is appropriate then they should approve project in the general sense, but that it must go back for specific tweaking from the DRB.

Chair Colin and Commissioner Paul believed density is appropriate. Commissioner Lang stated that the question is interrelated, and the number must be thoroughly vetted by the design professionals.

Commissioner Kirchmann stated that once unit size is accepted it translates to a certain volume of building. The existing office building is visually imposing and the volume of space is a little over twice that amount of the building. A very prominent public vantage point is southbound on Highway 101. He believes density is okay, but that cannot be divorced from the appearance of the building. He is not sure if the site necessarily supports this development, but design details could make the building appear less imposing.

Commissioner Pick felt that they are generally supportive of the density, parking scheme and supportive of the project location. He sees support for the project and if they could provide very specific direction to the DRB to provide guidance within their purview having clarified the policy items, then they could see a successful outcome. He suggested that there are opportunities to articulate this building by manipulating details and moving facades. If balconies were shifted or altered it would help. Also, the idea of reducing the required setbacks might in fact allow some movement in that direction as long as the fire access path is adequate. He further added that the City needs this project and they have an obligation to provide housing.

Chair Colin wanted to direct DRB to review the design aspects. Commissioner Pick wanted to approve the project with conditions. Principal Planner Boloyan noted that the Commission could continue the item back to the DRB with specific recommendations. The Commission could approve the project with certain recommendations and provision for follow up review by DRB. The Commission could also continue the matter back to the Commission to review revisions.

Commissioner Paul reminded the Commission and applicant that this looks like the Loch Lomond project that went on for years, many meetings and many DRB sessions. This project is almost right. They agree with density, parking, traffic and re-use of the site. They are trying to massage the project to fit all General Plan guidelines. They could continue and give DRB another shot with firm direction to state that more tweaking is needed or approve with those same provisions, but then they must be very specific. Chair Colin is uncomfortable being so design specific. She agreed to have the project thoroughly vetted by the design professionals.

Commissioner Sonnet believed DRB should have some flexibility on the number of units. Commissioner Lang noted that they are conceptually on board, but DRB must thoroughly vet the design.

Commissioner Paul stated that they could have the same number of units, but smaller. Possibly a two-bedroom unit or tweak the one-bedroom by tweaking the corners. If the number is critical at 83-units, then that direction should be forwarded to the DRB. Chair Colin appreciated the mix of affordable-by-design.

Commissioner Kirchmann stated that if DRB came in with an enthusiastic recommendation about the design they all would be on board. It really is the design elements and he is not comfortable approving the design before the Commission. The design must be fixed. They are faced with tension between accommodating community wide policies expressed in the General Plan and concerns of immediate neighbors and there is always tension. He thinks the developer has tried hard to accommodate the concerns of the immediate neighbors. He personally felt one part of the solution is expanding the footprint to provide a better opportunity to step the building back. With a creative design team there is plenty of opportunity to make sure the buildings are orientated to not impact privacy as well as plant screening. The design might not be all that far off, but there is some change required. This project should go back to the drawing board on how this building should take shape because this still must be an attractive design. He then noted that if the applicant desired an approval or denial tonight, then he would deny the project as presented.

Commissioner Paul asked staff if the Commission decided to deny the project, then the applicant can appeal to City Council. Principal Planner Boloyan responded in the affirmative. Commissioner Pick did not wish to deny the project and believed the Commission could be more productive by providing guidance. Mr. Monahan appreciates the Commission's feedback and desired specific guidance on the major issues of the project, and then be sent back to the DRB. He further believed if approved with general direction back to DRB that would be a much more workable solution.

Commissioner Lang summarized the consensus items of the Commission as follows:

- Accepts the density level
- Design needs improvement to reduce apparent bulk

Commissioner Paul suggested sending the matter back to the DRB to work on mass and

bulk issues knowing that the Commission found traffic, parking and density acceptable, but guidance is needed to mitigate apparent bulk to better relate to the neighborhood. He further agreed with Commissioner Pick that NH-2 is a concern.

Commissioner Pick stated that they could alter the form of the building, so that it still retains its basic mass and bulk, but responds better to NH-2. Commissioner Lang indicated that that they do not have enough information to approve. Principal Planner Boloyan noted that appropriate tools are no provided to conditionally approve the project tonight. Staff must develop conditions of approval and then bring back the project in a form of a resolution. Commissioner Paul recommended continuing the project and sending it back to the DRB with specific recommendations from the Commission, and then come back to the Commission with conditions.

Commissioner Pick suggested continuing the matter to the next meeting for staff to prepare a conditional approval to adopt on the Consent Calendar. The Commission disagreed.

Commissioner Kirchmann believes it is horrendously dangerous that an applicant can issue directives to the DRB or have an approval in hand and then develop the design, which is not the way the process works. He is not in favor of a conditional approval and would support staff's recommendation as outlined in the staff report.

Chair Colin noted that options are to deny the project with prejudice, without prejudice or refer back to the DRB. Mr. Monahan preferred to have a statement of support and specific guidance, and then they could go back to the DRB. Commissioner Lang directed the applicant to reduce the appearance of bulk. Commissioner Kirchmann stated that they must conform to the design standards in the General Plan and Zoning Ordinance. Commissioner Pick added that the project meets zoning guidelines, except for the design part, so he suggested conforming to NH-2.

Chair Colin feels this design was never reviewed by the DRB due to all the design issues. She feels the DRB did not vet the proposal before them tonight. Principal Planner Boloyan noted that the main issues were bulk, mass, stepping, lack of articulation and more transition. Commissioner Pick stated that the present volume and density are acceptable. Traffic and parking is not ideal, but acceptable. Commissioner Sonnet believed once they state volume is acceptable it will freeze the size of each unit. Commissioner Pick believes the volume can be spread out, so there are other massing alternatives for this project and DRB would be far more successful in addressing those if they are clear.

Commissioner Kirchmann believed part of the problem is with the precise shape of the proposed building. There might be some opportunities to vary vertically as well. Also, the design team should work with the idea of whether variations in footprint provide more opportunities.

Chair Colin asked if a variance is feasible. Commissioner Kirchmann believed it would

be very difficult to make findings for a variance. Principal Planner Boloyan discussed a setback reduction that is possible, but the Fire Department has stringent special requirements, so he is not sure how much latitude there will be in that reduction.

Commissioner Paul stated that a lot could be addressed with simple architectural articulation. He found density acceptable, but more scale and massing tricks are needed. They have a large building with a large number of units with a single-family neighborhood, which is a tough transition and the more mitigation measures the better for all parties. Materials, color changes, bays, stepping back and eroding a corner can help.

Commissioner Kirchmann expressed concern for not having a complete application. Ultimately, when the project comes back to the Commission or to Council, regardless of preliminary direction, the entire package must be reviewed and approved. He is not convinced that they need to have two unit types and at the sizes proposed. He further noted there is an opportunity to make the units smaller in order to make better transitions.

Commissioner Pick summarized the Commission's direction to the DRB:

- The scale of the building with regard to density, parking, unit count is generally acceptable.
- The massing and bulk of the building as presently proposed is not adequate and requires improvement to better implement General Plan Policy NH-2 and transitional elements to the neighborhood, possibly made by potentially altering any or all of the above:
 - Footprint;
 - Height;
 - Use of parapets versus no parapet roofs;
 - Lateral and vertical offsets in the elevations; and
 - Orientation of decks to minimize privacy concerns with adjacent neighbors.

Commissioner Paul stated that the multi-family design guidelines are troubling to the Commission. It is such a big building coming into a small-scale building and how to make that transition work, so it is basically about fitting into the context of the neighborhood.

Principal Planner Boloyan then summarized the Commission's comments:

- Continue the application back to the DRB with the following comments and recommendation:
 - That the scale and density including parking and unit count are acceptable
 - Massing and bulk of the structure are not adequate and need more work to better implement the issues with the 9 General Plan polices, except for CD1, CD7, CD9 and NH86, and the ways to meet this can include some or all of the following concepts:
 - Spreading or changing footprint;
 - Variation in height;
 - Use of parapets versus no parapet;

- Lateral and vertical offsets; and
- Orientation of decks to minimize privacy issues with adjacent neighbors and structures.

Commissioner Kirchmann would vote no because he would accept the applicants invitation to deny the project without prejudice. Commissioner Sonnet would vote against this project as well because it does not give DRB the flexibility to achieve NH-2 through any volume reduction and it forces the DRB into the density proposed. If they allow those units, then they will end up with those units. He further stated that no flexibility is given to the DRB.

Principal Planner Boloyan clarified that with this direction, the Commission is asking the applicant to present this current proposed project or modify their project. Commissioner Pick could not stipulate certain items that required modifications. Chair Colin believed the DRB must review the project with different eyes, taking policy off the table. Commissioner Paul suggested taking this design, using the Commission's direction and modify the design and then present to the DRB. He further noted that the Commission desires more articulation as well as variation in massing and scale.

Chair Colin asked for a motion.

Commissioner Pick moved and Commissioner Lang seconded, to continue the matter to the DRB with the language summarized by staff. Motion carried. Kirchmann opposed. Mills absent.

AYES:	Commissioners:	Pick, Lang, Chair Colin, Paul, Sonnet
NOES:	Commissioners:	Kirchmann
ABSENT:	Commissioners:	Mills
ABSTAIN:	Commissioners:	None

DIRECTOR'S REPORT

Principal Planner Boloyan reported that the PSP will open in mid November and applications will be due by the end of December. Staff review will occur in the early part of 2008 and applications will be before the Commission in mid to late February and then to Council in March. Staff has developed minor edits to the process and those will be forwarded to Council for their consideration. Staff noted that 820 Pine Lane has been appealed, so it will go to Council in November for final action. Also, Notice of Preparation for the airport project will be released tomorrow for a 30-day public review period on the scope of the airport EIR. They will not be having a scoping session before the Commission since the Commission had a scoping session when the contract was approved. Staff further noted that the EIR would start soon thereafter.

COMMISSIONER COMMUNICATIONS

Commissioner Pick asked staff if the PSP process was going to be looked at in a more comprehensive way this year. Principal Planner Boloyan noted that staff reviewed the good and bad parts of the PSP process and the general feeling from Council was to give it one more year and then review.

Commissioners Pick and Sonnet announced that they would be unable to attend the next Planning Commission meeting.

ADJOURNMENT

By order of the Chair, the meeting adjourned at 11:28 pm.

Respectfully submitted,
Jessica Woods, Recording Secretary