

**DESIGN REVIEW COMMITTEE MEETING**

**Tuesday, September 22, 2009  
Pavilion Meeting Room**

**1021 Harvard Way**

**8:00 a.m.**

**MINUTES**

**CALL TO ORDER:** 8:00 a.m.

**ROLL CALL:** Present: Diebels, Davidson, McCray, Sgamba, Rumsey

Kerrie Diebels, Chairman  
Jeff Haberman, Vice-Chairman  
Jack Davidson, Committee Member  
Cindy McCray, Committee Member  
Don Sgamba, Committee Member  
Lou Rain, Alternate Committee Member  
Ellison Rumsey, Alternate Committee Member

**CONSENT CALENDAR**

1. Adoption of Agenda, Approval of 8/15 Minutes

**END CONSENT CALENDAR**

Consent Calendar Adopted

**OLD BUSINESS**

OB1. VILLAGE: Ridgeview Village, Unit 8, Lot 453, APN: 120-442-071  
NAME: R. Eugene Peterson  
SITE: 3760 Mossridge Way  
RE: Oak Tree Removal (8/31—applicant requested 9/15 agenda)  
MOTION: Denied (Rumsey/McCray) 4-0 (Davidson not present for the vote)

Dr. and Mrs. Peterson, as well as, their solar company representative attended the meeting to discuss their request for the removal of two Oak Trees. The Committee held over the application from last week's meeting pending an answer from the CSD's legal counsel

pertaining to the CA Civil Code and the requirement that they not restrict the use of solar. Ms. Diebel's drafted a letter for the attorney's review which stated the Committee's position on the removal of the Oak Trees. Ms. Diebel's read her letter which stated the following:

Our committee was asked today to review an application for the removal of two healthy oak trees. At an earlier date the applicant had been granted approval for the installation of solar panels. Now the property owners feel that the presence of these oak trees is diminishing the performance of their solar panels to the extent that they wish to remove the trees.

The Design Review Committee is hesitant to grant approval for removal of these oak trees for the following reasons:

1. The shade these oak trees cast upon the roof should have been considered prior to application, approval, and installation of the solar panels.
2. The shade these oak trees provide may have been underestimated through contractor error, incorrect shade analysis, or miscommunication with the property owner. We feel it is the responsibility of the contractor to correct this error without jeopardizing the oak trees.
3. The intrinsic value these trees offer must be considered. The presence of the trees enhances the property and its value. More importantly, the presence of the trees provides natural shading for the home, thus reducing its energy needs for cooling in the summer.
4. Approving a solar system which will achieve 100% production of energy needs for the property is not mandatory. The property owner is achieving partial production of the home's energy needs, but appears to expect 100% production.
5. Please note the policy of this committee is to encourage alternative energy programs such as solar panels. It is our practice to approve applications and to work with property owners and contractors to expedite such approval.
6. Please note the policy of this committee is to preserve native oak trees whenever possible. We do not consider inconvenience as a justifiable reason to remove a native oak in El Dorado Hills.
7. The committee feels this is an unfortunate situation of miscommunication, lack of planning, and unrealistic expectations on the part of the contractor and property owners. As such, we feel the application should be denied.

Ms. Diebels then read the attorney's letter which read as follows:

The owner of 3760 Mossridge Way submitted an application to the Design Review Committee to obtain approval of solar panels. The Design Review Committee approved the solar panels as proposed by the resident and the solar panels were installed. After the solar panels were installed the resident discovered that the oak trees on their property diminished the performance of the solar panels. The resident then submitted a second application to the Design Review Committee to obtain approval to remove the oak trees that were diminishing the performance of the solar panels.

California has adopted several laws that encourage solar access and prevent restrictions on solar energy systems. However, the laws focus more on restrictions placed on the approval of solar energy systems and not to any post installation issues that might arise. Civil Code Section 714 allows reasonable restriction to be placed on the installation or use of solar energy systems, but does not apply to issues that arise after the original approval and installation.

Public Resource Code Section 25980, entitled “Solar Shade Control”, specifically covers the issue of trees and bushes shading or interfering with solar panels. The Public Resource Code explains that alternative energy devices like solar collectors require limited controls on trees and shrubs. However, the code also expresses the importance of planting and maintaining trees and shrubs for natural shading and to moderate outdoor temperatures. In order to satisfy both needs the code only applies to trees/shrubs that are either planted after the installation of the solar energy system or to trees/shrubs that grow to block the solar energy system. The Public Resource Code does not apply to trees or shrubs that were already planted prior to the installation of the solar collector.

While there are laws that regulate the approval of solar panels and trees affecting solar panels, none of the laws apply in this particular situation. First, the DRC did not place any constraints on their approval of the resident’s solar panels, and approved the system as proposed. Second, the issue regarding the oak trees did not arise until after the solar panels were already installed. Finally, the oak trees in question existed prior to the installation of the solar panels. Therefore, the DRC would not be violating any California law by denying the resident’s application to remove the oak trees at 3760 Mossridge Way. The DRC has lined out very specific reasons for their denial and is carrying out the CSD’s Oak Tree Preservation Policy. No law requires that the DRC decide otherwise.

Dr. Peterson noted that at last week’s meeting, he did not understand the Oak Tree safety issue. He stated that he lives in a wind tunnel and is worried about the Oak Trees falling over onto his home. He noted that the arborist reports indicated that tree #42 leans NW and that the tree was over pruned and continual pruning or removal was stated in the report. He noted that both trees present a danger to his home if a big storm hits. If he is forced to keep the Oak Trees in place, then it would be a structural, safety and health issue.

Mr. Sgamba stated that neither of the arborist reports that were provided indicated that the Oak Trees needed to be removed. Both reports recommend that nothing be done at this time.

Ms. Diebels noted that the Committee could either go on a site visit of the lot to view the Oak Trees, ask for a clarification or further recommendation from the arborist, or vote on the issue.

Dr. Peterson noted that the arborist would not provide additional information and that he had said that the report contains all of his comments and he would not write another report and/or attend the Committee’s meeting.

Ms. Diebels noted that since the arborist will not make additional comments, she asked the Committee if they would be able to continue the meeting to the site and vote on the

application at the site. Ms. McCray, Mr. Rumsey and Sgamba were in favor of this, but Mr. Davidson noted that he would not be able to attend the site visit.

The meeting was continued to a site visit and the Committee voted with a Motion by Rumsey and a second by McCray with Sgamba and Diebels in favor to deny the application for the removal of the two Oak Trees. Dr. and Mrs. Peterson were informed that they could appeal the decision of the DRC to the CSD Board of Directors within 10 business days or, if additional information arose pertaining to the trees, i.e., a new arborist report, then their application was valid for one year and they could reopen the file at any time within that timeframe at no additional cost.

OB2. VILLAGE: Stonegate Village, Unit 3, Lot 208, APN: 125-432-261  
NAME: Kimberly Stein  
SITE: 4321 Brisbane Circle  
RE: Re-Roof (9/9)  
MOTION: Approved (Sgamba/Davidson) 5-0

Ms. Stein attended the meeting along with the representative from The Certainteed Roofing Company. The Committee had denied the application last week because the material was not on the Committee's approved material list. The contractor provided sample boards of other materials that were on the Committee's list and noted that the Certainteed Landmark was similar to a couple of the other products that were on the list. After viewing the various sample boards, the Committee voted to approve the Certainteed Landmark Premium product, lifetime warranty, in the color Weatherwood.

This item will be added to next week's agenda so that the Committee can vote on adding it to the approved materials list. The Committee was in favor of all of the colors on the sample board except for the Birchwood and Graphite, but this will be discussed further at next week's meeting.

### **NEW BUSINESS**

NB1. VILLAGE: Stonegate, Lot 204, APN: 125-432-221  
NAME: Garth Horn  
SITE: 3495 Northam Way  
MAILING: 2489 Highland Hills Drive, EDH  
RE: Re-roof (9/15)  
MOTION: Approved (Davidson/Sgamba) 5-0

The Committee voted to approve the re-roof with Owens Corning, Duration in the color Estate Gray. This material and color is on the Committee's list of approved roofing materials.

NB2. VILLAGE: Marina Woods, Lot 96, APN: 110-346-051  
NAME: Ron and Susan Tyler  
SITE: 2540 Templeton Drive  
RE: Exterior Paint (9/16)  
MOTION: Approved (McCray/Rumsey) 5-0

The Committee voted to approve the exterior paint colors of Perfect Base for the base and garage doors, Nugget Brown for the window trim and pop outs in front of the house and for the trim around the garage doors, and Susan Dover White for the gutters and wood trim around the house and on the outside of the eaves.

NB3. VILLAGE: Marina, Unit 3, Lot 228/227, APN: 110-110-181  
NAME: Patricia McPeak (Attn: Amy Heath)  
SITE: 773 Lakecrest Drive  
MAILING: 100 Rock Lane, EDH  
RE: Landscaping (front/rear), Flatwork, RV Pad, Driveway Extension  
Deck, Gazebo, Exterior Paint, Re-roof, Pond (9/16)  
MOTION: No Action/Site Visit at next week's meeting

Amy Heath, representative for the homeowner, attended the meeting, as well as a neighboring lot owner that had lived across the street from the property for many years. A Property Improvement Application was submitted for a multitude of items—the project has been ongoing for about a year, but the owner had not submitted any information pertaining to the project until this meeting. Amy noted that the home was purchased in May 2008 and that they had started working on the house at that point in time.

The CC&R Compliance Officer, Janice McGrath, addressed the Committee and stated that a Stop Work had been issued on this property back in May and it was a code enforcement issue at the County. The code enforcement issue was a setback issue for the parking pad. She had also driven by the home last week and received a complaint from a neighbor at that time. She also stated that other complaints had been received. In addition there is a big light that was installed on the property that illuminates the entire area at night.

The neighboring lot owner in attendance at the meeting noted that the home had been in disarray in the years before Ms. McPeak had purchased it. She was happy that something was being done at the property and wanted the owner to be allowed to continue and complete the project. She said it will be nice when it is done.

Due to the scope of the project and the fact that the plans were unclear and did not provide complete information, the Committee decided to hold over the application and conduct a site visit of the property at next week's meeting.

NB4. VILLAGE: Fairchild, Lot 99, APN: 125-692-161  
NAME: Paul and Lea Vevera  
SITE: 3585 Stockwood Way  
RE: Storage Shed (Preliminary Discussion)  
MOTION: No Action (Preliminary Discussion Only)

Mr. and Mrs. Vevera attended the meeting to discuss their octagonal shaped storage shed that they were proposing in their back yard area. They also would like to install a cross type structure in their back yard as well. The Committee reviewed the preliminary drawings and noted that the storage shed is considered a structure and would have to meet the set back requirements of 5 feet to the side property line and 15 feet to the rear property

line. After further review of the CC&R's it was noted that the rear property line in Fairchild Village is 20 feet, but the Committee could grant a variance.

Mrs. and Mrs. Vevera noted that even with a variance they did not think that they could put a storage shed in their back yard. They will return with a final application and drawings as well as photographs of their lot. They asked if they could put a temporary type structure in their back yard similar to one that you find at Home Depot that is noted anchored to the ground. The Committee noted that as long as it was movable then they could put it in the yard, but once it is affixed to the ground and taller than 36" then it becomes a structure and needs to meet the proper setbacks.