

MINUTES OF THE CITY COUNCIL

CITY OF VILLA PARK, CALIFORNIA

The City Council of the City of Villa Park met in regular session Tuesday, January 27, 2004 at 7:30 PM in the City Council Chambers, 17855 Santiago Boulevard, Villa Park, California.

CALL TO ORDER: Mayor Bortle called the meeting to order.

ROLL CALL:

COUNCILMEMBERS PRESENT:

Patricia Bortle	Mayor
Bill MacAloney	Mayor Pro Tem
Bob Bell	Councilmember
Rich Freschi	Councilmember
Robert McGowan	Councilmember

STAFF PRESENT:

George Rodericks	City Manager
Cristina Sundstrom	Administrative Secretary/Deputy City Clerk
Leonard Hampel	City Attorney
Warren Repke	City Engineer

FLAG SALUTE:

Serrano Elementary sixth-grade students Dani Leimkuhler and Lesley Nakata led the salute.

INTRODUCTIONS AND PRESENTATIONS:

APPOINTMENTS:

1. Investment Advisory Committee Potential Appointment.

Councilmember Freschi introduced Mr. Carlberg as an applicant to the City's Investment Advisory Committee. Councilmember Freschi explained to the public that this committee meets quarterly and decides how to invest the City's money. Mr. Carlberg has an impressive background in accounting and numerous degrees.

It was moved by Councilmember Freschi, seconded by Councilmember Bell, and carried by the following roll call vote to appoint Daniel Carlberg to a two-year term as Investment Advisory Committee Member:

AYES:	COUNCILMEMBERS:	Bell, McGowan, Freschi, MacAloney, Bortle
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

ORAL COMMUNICATIONS:

Pam Dunn, 9432 Hazel Circle, addressed Council with an update on two Rotary Club projects. She discussed Grad Night Formal for girls that will be given for Olive Crest, a foster care home. She requested that anyone who would like to donate used formals contact her. The second update concerned the clock tower. Steve Hart is busy preparing for its official installation in March or April. She thanked all 48 donors for making the project a reality. In February or March the donors will be presented with their miniature clocks as a thank you.

Stan Matthews, Battalion Chief for Orange County Fire Authority, was in the audience and acknowledged by Councilmember Bob Bell.

Kathy Moffat, Orange Unified School District Trustee and resident, 9891 Oakwood Circle, addressed the Council on her desire to educate the public on the issues behind Measure A. This Measure will be on the March 2, 2004 ballot. She left some information packets for the Council on behalf of the Superintendent, Dr. French. She reported that there will be an information night open to the public on February 10, 2004, 7:30 p.m. at Chapman Hills Elementary School in Orange.

Denis Bilodeau, Orange County Water District Board President, gave a comprehensive presentation on the groundwater replenishment project that will be completed in 2007. The Groundwater Replenishment System increases Orange County's water independence by creating a locally controlled, drought-proof supply of safe, high-quality water – enough water to meet the annual needs of 140,000 families by 2007. Groundwater Replenishment System water will exceed all state and federal drinking water standards and have water quality similar to bottle water.

The Groundwater Replenishment System Education and Information Program was selected by the U.S. Department of Energy as a national example of "best practices" in communicating scientific information.

Orange County Water District as an agency is responsible for providing groundwater to 23 cities and water agencies in north-central Orange County. It protects Orange County's flow of the Santa Ana River and manages and protects the Orange County groundwater basin.

For more information on this project, residents may contact the Orange County Water District at (714) 378-3333 (Public Relations) or log on to www.gwrssystem.com.

Ron Accornero, President of Friends of the Villa Park Library, addressed Council about the book entitled, "The Five People You Meet in Heaven" by Mitch Album. He announced that the Friends of the Villa Park Library's annual fundraiser will take place again at Yen Ching Restaurant in Orange at a cost of \$30 per person for a dinner on Monday, March 5, 2004 at 6:30 PM.

CONSENT AGENDA:

1. Consideration to Waive Reading in Full of All Ordinances on the Agenda. Approved Action: That the City Council waive the reading in full of all ordinances on the Agenda.
2. Consideration of City Council Minutes of December 16, 2003. Approved Action: That the City Council approve the City Council Minutes of December 16, 2003.
3. Consideration of List of Demands for December 31, 2003. Approved Action: That the City Council approve the List of Demands for December 31, 2003, numbered 1 through 25 in the amount of \$112,081.45.
4. Consideration of List of Demands for January 27, 2004. Approved Action: That the City Council approve the List of Demands for January 27, 2004, numbered 1 through 48 in the amount of \$237,183.22.
5. Consideration of Storm Drain Easements For Villa Isle Area Storm Drain Project. Approved Action: That the City Council accept the storm drain easement dedications for Assessor's Parcel Nos. 372-551-06, 372-551-07, 372-551-08, and 372-551-14 and authorize the City Clerk to record the Easement Deeds.

It was moved by Councilmember McGowan, seconded by Councilmember Bell, and carried by the following roll call vote to approve Consent Agenda Items 1 through 4:

AYES:	COUNCILMEMBERS:	Bell, McGowan, Freschi, MacAloney, Bortle
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

It was moved by Councilmember McGowan, seconded by Mayor Pro Tem MacAloney, and carried by the following roll call vote to approve Consent Agenda Item #5:

AYES:	COUNCILMEMBERS:	Bell, McGowan, Freschi, MacAloney, Bortle
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

MATTERS PRESENTED BY COUNCILMEMBERS:

Councilmember Freschi reported that Mayor Pro Tem MacAloney was endorsed by State Senator Tom McClintock.

Mayor Bortle discussed the Villa Park Firefighters' annual dinner held this year at the Orange County Mining Company Restaurant in Orange on January 25, 2004. She commended the Villa Park Firefighters.

Councilmember Bell thanked the Villa Park Firefighters for inviting the Council to a wonderful evening.

CITY COMMISSION AND COMMITTEE REPORTS OR REFERRALS:

1. Public Utilities Committee Report – Wireless Communications with Site Management Services, Inc.

City Manager Rodericks presented a report on wireless communications and the Public Utilities Committee efforts to improve service in Villa Park.

Staff presented the First Amendment to Agreement between SMS and the City of Villa Park to allow SMS to address the City's unique wireless gaps using repeaters, if feasible.

Staff recommends that the City Council approve the First Amendment to Agreement and authorize the Mayor to execute the Agreement on behalf of the City.

Mayor Pro Tem MacAloney asked City Manager Rodericks where the repeaters would be placed. The repeaters could be placed on utility poles or at stop light intersections. City Manager Rodericks replied that SMS was expressing that in order to make a real impact on the east side of the City, the tower needs to be farther east, near the Canyon Drive and Villa Isle area and around Taft and Cannon Street or around the Taft and Sycamore intersection.

Mayor Pro Tem MacAloney then asked if the City could get into a bidding mode to bring in some revenue to the City.

City Manager Rodericks responded that the Agreement is not exclusive.

Councilmember Freschi remarked that SMS leases the use of the towers to various companies.

Councilmember McGowan reported that Cingular is a suitor for AT& T Wireless now and if they wind up being a parent company, perhaps Villa Park can get a tower raised up again to almost double the height.

It was moved by Councilmember Freschi, seconded by Councilmember McGowan, and carried by the following roll call vote to approve the First Amendment to Agreement with Site Management Services, Inc. and authorize the Mayor to execute the Agreement on behalf of the City:

AYES:	COUNCILMEMBERS:	Bell, McGowan, Freschi, MacAloney, Bortle
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

2. City Liaison Committee Report – Chairman Councilmember McGowan

Councilmember McGowan addressed two recent issues that had been discussed in a Committee meeting held on January 26, 2004. The first issue was The Villa Park High School Track Team running through city streets when the schools get out and the second issue was the parking on the southern part of Villa Park High School's grounds that impact sprinklers, grass, etc. Both issues are being addressed by the OUSD administration.

Mayor Pro Tem MacAloney brought up the fact that the Orange County Sheriff's Department has to respond to many calls that are generated from the High School, in particular.

City Manager Rodericks responded that the incidence level is about the same as it always has been. The issue is one of time – the deputies spend time dealing with school issues when they might be able to deal with issues pertaining to residents instead. He added that if the enrollment numbers increase in the Villa Park schools, then the traffic level will be seriously impacted.

3. Discussion of Proposition 172 – Councilmember Bob Bell.

City Manager Rodericks gave a brief history of Proposition 172.

The County Board of Supervisors includes only the Sheriff's Department (80%) and the District Attorney's Office (20%) in the allocation of Proposition 172 monies to county public safety agencies.

The OCFA attempted to get the Board to allocate funds to them in hearings conducted in 1995 and 1996.

In 1997, OCFA sent a letter to the County CEO requesting future consideration in 172 revenues.

As it stands today, OCFA receives no funding from Proposition 172.

In Fiscal Year 2002-03 the District Attorney received \$43 million and will receive \$44 million in Fiscal Year 2003-04 from Proposition 172 revenues.

In Fiscal Year 2002-03 the Sheriff received \$174 million and will receive \$179 million in Fiscal Year 2003-04 from Proposition 172 revenues.

The OCFA is considering an initiative in November 2004 that will address the disparity stemming from the Proposition 172 issue.

Councilmember Bell discussed the disparity vis-à-vis the Orange County Fire Authority not receiving any money while the Sheriff and the District Attorney receive 80% and 20% of the revenues, respectively. He reported that he would keep Villa Park informed about the progress, if any, made toward getting this initiative on the November 2004 ballot.

Some discussion ensued between Councilmembers McGowan and Bell regarding the fact that the County Board of Supervisors vote on this issue annually and that it is conceivable that a new vote could yield change for the Orange County Fire Authority.

Mayor Bortle announced that Councilmember Bell was appointed to the position of Chairman of the Budget and Finance Committee for the Orange County Fire Authority.

ITEMS FOR CONSIDERATION: None.

PUBLIC HEARINGS:

1. Consideration of Conditional Use Permit No. 0551 for a Large Family Day Care Home– (Location: 9912 Colony Grove Lane; Applicants: Kaja and Don Donikowski).

Mayor Bortle opened the Public Hearing.

City Manager Rodericks reported that the applicants are requesting permission to continue operation of a Large Family Day Care Home from a residential zone.

Resolution No. 2003-2705 approved Conditional Use Permit No. 0551 in September 2003 with the condition that the use be reviewed in January 2004 after completion of a traffic study to address traffic patterns and flow.

A traffic study has been completed and is attached to the Staff Report. The applicant has remained compliant with all conditions of approval.

During November and December 2003 a traffic analysis was conducted to determine the impact on Colony Grove Lane and the potential for use of a Taft Avenue drop-off location.

The traffic analysis concluded that the operation of the Large Family Day Care could increase vehicle trips on Colony Grove by as much as 60 trips per day. During the Day Care's peak hours, on-street parking may briefly overflow into adjacent residential street frontage due to lack of available on-site parking.

The report also concluded that while the increased traffic volume and periods of on-street parking may be a nuisance issue for the neighborhood, the increase in traffic does not significantly impact the capacity of operation of Colony Grove Lane to the extent that loading and unloading activities should be relocated to the Taft Avenue gate, a less safe location.

The report concluded that efforts by the applicant with respect to carpooling and arrival and departure scheduling can significantly lessen any traffic and parking demands.

Staff recommends approval of this application, with conditions.

It is recommended that the City Council conduct a Public Hearing, review the application, and make appropriate findings thereto.

City Manager Rodericks stated that there have not been any direct complaints to the City regarding the day care business.

Mayor Bortle closed the Public Hearing.

Mayor Bortle re-opened the Public Hearing.

Public testimony was heard from four residents and the traffic consultant.

First, Pam and Daniel Burns, 9892 Colony Grove Lane, expressed their concern about issues related to the Sheriff having to come to their neighborhood.

City Attorney Hampel encouraged Mr. and Mrs. Burns to remain in contact with the City Manager regarding any unsafe conditions he may see as a result of the day care operation. He stated that any safety concerns should be brought up to the City Manager immediately.

Mayor Bortle explained that the City avoids getting involved in private, civil, disputes. She suggested they settle it peacefully or call the Sheriff's Department.

Sherry Underwood, 9885 Colony Grove Lane, addressed Council about the noise, nuisance and traffic congestion that is caused by this day care operation. She stated she was opposed to the Conditional Use Permit.

Eugenia Rice, 9911 Colony Grove Lane, opposed the Conditional Use Permit due to the lack of privacy created by the extra traffic generated from the parents picking up and dropping off their children every day.

Don Donikowski, 9912 Colony Grove Lane, stated that no clients arrive before 7:15 AM and that only one employee arrives by around 7:15 AM. He stated that he has not been confrontational and that the number of cars is not 60 (total trips) since there are only about 12 children currently enrolled in his day care operation.

Bernie Dennis, traffic consultant, stated that the Taft Avenue pick-up/drop-off idea was not approved by staff because the extra traffic generated daily by the operation does not significantly impact the safety or increase the risks to the residents of Colony Grove Lane. He stated that while there are only 18 cars a day during the peak traffic hours on Colony Grove Lane, however, there are over 200 cars a day on Taft Avenue in one direction. Furthermore, it would be very unsafe to leave young children unattended in a car parked on Taft Avenue versus in a car parked on Colony Grove Lane.

Daniel Burns, 9892 Colony Grove Lane, spoke a second time about being harassed by the Donikowski's clients. He stated that he has contacted the Sheriff's Department about these incidents.

Mayor Bortle closed the Public Hearing.

It was moved by Councilmember Bell, seconded by Councilmember Freschi, and carried by the following roll call vote to adopt Resolution No. 2003-2724, a Resolution of the City Council of the City of Villa Park approving Conditional Use Permit No. 0551, for a Large Family Day Care Home, with conditions - (Location: 9912 Colony Grove Lane; Applicants: Kaja and Don Donikowski):

AYES:	COUNCILMEMBERS:	Bell, Freschi, Bortle
NOES:	COUNCILMEMBERS:	McGowan, MacAloney
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

2. Consideration of Conditional Use Permit No. 0563 for a detached patio cover, with conditions– (Location: 10851 Laconia Drive; Applicants: Rod and Carol Abbott).

Mayor Bortle opened the Public Hearing.

City Manager Rodericks reported that the applicants are requesting permission to construct a detached patio cover of approximately 330 square feet.

The subject property is located at 10851 Laconia Drive and is in the R-1 zoning district. Lot areas within this district range from 8,000 to 13,500 square feet. Surrounding uses are residential.

The applicant is proposing a detached patio cover of approximately 330 square feet. The height of the structure is proposed at 11 feet 10 inches. Detached structures require a Conditional Use Permit; are limited to a height of 15 feet; and must abide by the ten (10) foot setback requirement.

The Villa Park Zoning Code provides that when calculating lot coverage, patio covers which are at least fifty (50%) percent open, not exceeding 12 feet, and open on all sides, except where they may be attached to the main structure, are excluded. Therefore, the patio cover does not constitute lot coverage.

Based on a review of the application, the proposed project meets the objectives of the Villa Park Zoning Code and complies with lot coverage, floor area, setback, and height requirements.

Staff recommends approval of the application.

It is recommended that the City Council conduct a Public Hearing, review the application, and make appropriate findings thereto.

Mayor Bortle closed the Public Hearing.

It was moved by Mayor Pro Tem MacAloney, seconded by Councilmember McGowan, and carried by the following roll call vote to adopt Resolution No. 2004-2725, a Resolution of the City Council of the City of Villa Park approving Conditional Use Permit No. 0563 for a detached patio cover, with conditions - (Location: 10851 Laconia Drive; Applicants: Rod and Carol Abbott):

AYES:	COUNCILMEMBERS:	Bell, McGowan, Freschi, MacAloney, Bortle
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

3. Consideration of Conditional Use Permit No. 0564 for a detached patio cover - (Location: 18422 Lincoln Circle; Applicants: Ron and LeAnn Frazier).

Councilmember McGowan excused himself from the hearing to abstain due to his property's proximity to the applicant's.

Mayor Bortle opened the Public Hearing.

City Manager Rodericks reported that the applicants are requesting permission to construct a detached patio cover of approximately 720 square feet.

The subject property is located at 18422 Lincoln Circle and is in the E-4 Small Estate zoning district. Lot areas within this district are a minimum of 20,000 square feet. Surrounding uses are residential.

The applicants are proposing a detached patio cover of approximately 720 square feet. The height of the structure is proposed at 15 feet. Detached structures require a Conditional Use Permit; are limited to a height of 15 feet; and must abide by the ten (10) foot setback requirement.

Based on a review of the project application, the proposed project meets the objectives of the Villa Park Zoning Code and complies with lot coverage, floor area, setback, and height requirements.

Staff recommends approval of this application.

It is recommended that the City Council conduct a Public Hearing, review the application, and make appropriate findings thereto.

Councilmember McGowan asked for clarification on measuring height from existing grade.

Mayor Bortle closed the Public Hearing.

It was moved by Councilmember Freschi, seconded by Councilmember Bell, and carried by the following roll call vote to adopt Resolution No. 2004-2726, a Resolution of the City Council of the City of Villa Park approving Conditional Use Permit No. 0564 for a detached patio cover, with conditions – (Location: 18422 Lincoln Circle; Applicants: Ron and LeAnn Frazier):

AYES:	COUNCILMEMBERS:	Bell, Freschi, MacAloney, Bortle
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	McGowan

4. Consideration of Conditional Use Permit No. 0565 for a two-story addition – (Location: 9651 Crestview Circle; Applicants: Robert and Christine Drobish).

Councilmember Bell excused himself from the hearing to abstain due to his property's proximity to the applicant's.

Mayor Bortle opened the Public Hearing.

City Manager Rodericks reported that the applicants are requesting permission to construct a two-story addition exceeding 25 feet.

The subject property is located at 9651 Crestview Circle and is in the E-4 Small Estate zoning district. Lot areas within this district are a minimum of 20,000 square feet. This parcel has a net lot area of 25,613 square feet. Surrounding uses are residential.

The applicant is proposing a two-story addition exceeding 25 feet in height to a maximum of 32 feet. Total lot coverage is 4,338 square feet or 17%. Total floor area is

5,835 square feet or 22.8%. Lots within the E-4 Small Estate zone are restricted to 24% lot coverage for two-story homes and 32% floor area. Minor architectural features, such as chimneys, weather vanes, etc. are allowed to project above the 32 foot height requirements.

Based on a review of the project application, the proposed project meets the objectives of the Villa Park Zoning Code and complies with lot coverage, floor area, setback, and height requirements.

Staff recommends approval of this application.

City Manager Rodericks spoke to a neighbor south of this property who has some privacy concerns about this project.

It is recommended that the City Council conduct a Public Hearing, review the application, and make appropriate findings thereto.

Public testimony was made by Ajith Moonesinghe, 19141 Ridgeview Road, expressed his concern about the fact that the Drobish property is about 10 to 12 feet higher than his property. He asked that Mr. Drobish describe the goals of his project so he could understand it. Mr. Drobish explained that the goal of the project was to look over the property, not into the property. The octagon will have a setback well beyond 13 feet. He explained that this was done by design so as not to invade the neighbor's privacy. He also stated that he was willing to put in landscaping to maintain his privacy. Mr. Drobish said that he would be submitting a landscape plan to the Building Department.

Mayor Bortle confirmed with the resident that he was satisfied with the Drobish plan.

Mike Valen, 19132 Mesa Drive, voiced opposition to the project because it will look straight down onto his house. He stated that he has spent hundreds of thousands of dollars to improve his property and that he is opposed to a height of 32 feet. He thinks that 25 feet is substantial. His second concern is one of drainage. It is currently going to his side of the street. He would like this project to be timely. He lives near constant construction sites.

Councilmember Freschi questioned Mr. Valen about his main objections to the project. He stated that he would like to see the project limited to 25 feet.

Mr. Drobish addressed the Council again. He stated that he wants to go up a story to capture a view, therefore, there will be privacy issues. He believes that he has come up with a design that will not invade anyone's privacy. He plans to screen the west side of the his property with fruit trees.

Mike Masilotti, architect for the Drobish property, addressed the Council about the top 7 feet of the project. He told Councilmember Freschi that it was the roofline.

Mayor Bortle questioned Mr. Valen as to whether he objected to aesthetics or the loss of privacy. He responded that he objected to both.

Mayor Bortle then asked the architect what it would do to the aesthetics of the project to reduce the height.

Mr. Masilotti reported that the whole idea was to create stepping in the plan so that it is not one big boring mass. If he were to design a home that abides by the 25 foot height restriction, he would be creating a big box. He added that, ultimately, it is probably not what the neighbors would want. He noted that the tower is about the only part of the house that will exceed the 25 foot height limitation. The highest point of the house grounds the house to the site.

Councilmember McGowan inquired about Mr. Drobish's landscape plan and drainage plan.

Mr. Drobish agreed he will submit a landscape plan and that the drainage will be directed to the street.

City Manager Rodericks confirmed that any controlled or directed drainage needs to go toward the street and away from any neighboring property.

Mayor Pro Tem MacAloney asked if there is any way that drainage pipes can be placed on his property as a condition of approval.

Mr. Drobish replied that the drainage issue needs to be resolved, which is independent of the current project.

City Manager Rodericks addressed the applicant about the front and rear yard landscaping plans. As part of the rear yard landscaping plan, drainage issues should be addressed.

City Engineer Repke addressed the Mayor about the fact that staff uses these opportunities to address existing drainage problems.

City Attorney Hampel confirmed that condition #10 will address the rear yard drainage.

Mayor Bortle closed the Public Hearing.

It was moved by Councilmember Freschi, seconded by Mayor Pro Tem MacAloney, and carried by the following roll call vote to adopt Resolution No. 2004-2727, a Resolution of the City Council of the City of Villa Park approving Conditional Use Permit No. 0565, for a two-story addition exceeding 25 feet in height, with conditions:

AYES:	COUNCILMEMBERS:	McGowan, Freschi, MacAloney, Bortle
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	Bell

5. Consideration of Variance Permit No. 0566 for fence, pilasters, and gates over 42 inches within the required front setback – (Location: 18961 Valley Drive; Applicants: Billy and Laurie Skeffington).

Mayor Pro Tem MacAloney excused himself from the hearing to abstain due to his property's proximity to the applicant's.

Mayor Bortle opened the Public Hearing.

City Manager Rodericks reported that the applicant is requesting permission to construct security fencing, pilasters, and gates over 42 inches in height within the required front setback.

The subject property is located at 18961 Valley Drive and is in the E-4 Small Estate zoning district. Lot areas within this district are a minimum of 20,000 square feet. Surrounding uses are residential.

The applicant is proposing to construct security fencing, gates, and pilasters at a height of 6 feet immediately adjacent to the City right-of-way and within the required 20 foot front setback area. Portions of the proposed structures encroach into the City right-of-way by 1.5 feet. If approved, staff recommends that an Encroachment Agreement be completed for those portions of the structures that encroach into the City right-of-way.

The Villa Park Code also allows for an Administrative Adjustment for Variance requests that do not exceed a 25% reduction in the required setback. The requested application exceeds a 25% reduction in the required front setback.

Variance permits require that the City Council find that the strict or literal interpretation of the Code would result in a practical difficulty or unnecessary physical hardship that is inconsistent with the objectives of the Zoning Code. The Council must also find that there are exceptional or extraordinary circumstances applicable to the property that do not apply generally to other properties in the same zone. Based on a review of the project applications, the proposed project does not meet the objectives of the Villa Park Zoning Code and there does not appear to be special or extraordinary circumstances applicable to the property making it unique.

Staff cannot recommend approval of this application.

It is recommended that the City Council conduct a Public Hearing, review the application, and make appropriate findings thereto.

Public testimony was made by Mike Masilotti, architect for the Skeffington project, addressed Council about the reason for the height of the wall and add the gates. To the east of this property, the owners have a low wall in front of their house and Skeffington did not want to put his wall back behind their's too far because it would down play Skeffington's wall. Mr. Skeffington is quite concerned about security since his children play in the front yard. As proposed, the gates do swing into the property and will not block ingress or egress into the property. Mr. Skeffington does not believe the gates will interfere with the public right-of-way. Also there is a boat garage in front of the house and if the gates are setback any further, opening the gates will interfere with this.

City Manager Rodericks pointed out to Council that a letter in opposition to this project was received.

Public testimony was also made by Bill Skeffington, 18961 Valley Drive, addressed Council about some photographs that he took around Villa Park. He told the Council that his primary concern is security for his children.

City Manager Rodericks confirmed that the setback must be a minimum of 20 feet.

Councilmember Freschi remarked that the backyard as it presently exists is substantial enough in size for his children to play back safely from the street.

Councilmember McGowan questioned City Engineer Repke about the 20 foot setback requirement from the street for cars pulling into the driveway. Mr. Repke remarked that the City could be liable if a car stuck out beyond the curb. Therefore, the restriction of a 20 foot setback is in place to avoid this situation.

Councilmember Bell stated he was opposed to the gates closing off the front of the property. He commented that in general he dislikes properties closed from the roadside.

Mike Masilotti, the architect, commented that there is currently parking on both sides of Valley Drive and so he doubted that the Skeffington drive-way would be used as a pull-in parking area outside of the gate.

City Attorney Hampel quoted two sections of the Villa Park Municipal Code: Sections 17-6.1 and 17-6.3. The first section is entitled, "Maintenance in a Safe and Nondangerous Condition." This section states that all private driveway approaches shall be maintained in a safe and nondangerous condition so as to avoid injury to a person or property. The second section is entitled, "Liability for Injuries to the Public." This section states that property owners served by private driveway approaches owe a duty of care to members of the public to keep and maintain said private driveway approaches in a safe and nondangerous conditions so as to avoid injury to person or property.

City Attorney Hampel stated that the City has a duty of care to the public so as to assure private driveway approaches are maintained in a safe and nondangerous condition.

Councilmember McGowan suggested that the Skeffingtons try to eliminate the gates from swinging open and instead have them roll open.

Councilmember Freschi stated that he was confident that as fine of an architect as Mr. Masilotti could most likely come up with a design for the gate that would allow for a safe 20 foot setback.

Councilmember Bell echoed the concern about public safety and that in order to achieve this goal, the gate should be at least 20 feet setback from the street.

Mayor Bortle closed the Public Hearing.

Councilmembers Bell and Freschi agreed that they would hope the applicant would return to the Council in the near future with an alternate plan (no closer than 20 feet from the curb) so the application would be continued rather than denied.

Mayor Bortle re-opened the Public Hearing to avoid re-noticing this Variance Permit.

It was moved by Councilmember Freschi, seconded by Councilmember McGowan, and carried by the following roll call vote to continue the Public Hearing until February 24, 2004:

AYES:	COUNCILMEMBERS:	Bell, McGowan, Freschi, Bortle
NOES:	COUNCILMEMBERS:	None

ABSENT: COUNCILMEMBERS: None
ABSTAIN: COUNCILMEMBERS: MacAloney

6. Consideration of Conditional Use Permit No. 0567 for an increase in the maximum allowable floor area ratio by 5% - (Location: 10161 Sunkist Circle; Applicant: Suresh C. Jain).

Mayor Bortle opened the Public Hearing.

City Manager Rodericks reported that the applicant is requesting permission to add an elevator to the property which will increase the maximum allowable floor area ratio (40%) by 5% to 45%.

The subject property is located at 10161 Sunkist Circle and is in the R-1 zoning district. Lot areas within this district range from 8,000 to 13,500 square feet. Surrounding uses are residential.

The applicant is proposing to add an elevator to the structure which will add approximately 215 square feet to the property. A large majority of the properties developed in the Villa Park Orchards were developed at their maximum allowable floor areas. The addition of 215 square feet to this property will result in this property exceeding the maximum allowable floor area ratio of 40% by 5%.

The property is within an established Homeowner's Association and written approval from the Association will be required.

Based on a review of the project application, the proposed project meets the objectives of the Villa Park Zoning Code and complies with lot coverage, setback, and height requirements. A Conditional Use Permit is required for the increase in floor area.

Staff recommends approval of this application.

It is recommended that the City Council conduct a Public Hearing, review the application, and make appropriate findings thereto.

No public testimony was made.

Mayor Bortle closed the Public Hearing.

It was moved by Councilmember Bell, seconded by Councilmember McGowan, and carried by the following roll call vote to adopt Resolution No. 2004-2729, a Resolution of the City Council of the City of Villa Park approving Conditional Use Permit No. 0567, for a two-story addition exceeding 25 feet in height, with conditions:

AYES: COUNCILMEMBERS: Bell, McGowan, Freschi, MacAloney, Bortle
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None
ABSTAIN: COUNCILMEMBERS: None

7. Consideration of Variance Permit No. 0568 for portions of a wall over 42 inches within the required front setback – (Location: 18201 Windsor Drive; Applicants: Lester and Connie Townsend).

Councilmember Freschi excused himself from the hearing to abstain due to his property's proximity to the applicant's.

Mayor Bortle opened the Public Hearing.

City Manager Rodericks reported that the applicants are requesting permission to construct portions of a wall over 42 inches within the required front setback.

Article 23-6.11 of the Villa Park Municipal Code specifies that the maximum height of any fence, wall, or other structure within the first 20 feet of the property shall be limited to 42 inches.

The subject property is located at 18201 Windsor Drive and is in the E-4 Small Estate zoning district. Lot areas within this district are a minimum of 20,000 square feet. Surrounding uses are residential.

The applicant is proposing to construct a wall along their frontage at a height exceeding 42 inches. The majority of the wall is located outside of the required 20 foot front setback area. However, as the frontage of the lot curves at the corner, a portion of the wall enters the required 20 foot front setback and exceeds 42 inches. To keep the wall architecturally consistent with the existing pilasters, the applicant is requesting a Variance for that portion of the wall connecting the pilasters to the new proposed wall.

The Villa Park Code also allows for an Administrative Adjustment for Variance requests that do not exceed a 25% reduction in the required setback. The Variance requested by the applicant does not exceed a 25% reduction. Based on a review of the project application, the proposed project does not meet the objectives of the Villa Park Zoning Code; however, the location of the property at the corner of Windsor Drive and Phelan Drive and the unique radius of the street at their property creates a special condition that provides sufficient findings for a Variance.

Staff recommends approval of this application.

It is recommended that the City Council conduct a Public Hearing, review the application, and make appropriate findings thereto.

Mayor Bortle closed the Public Hearing.

It was moved by Councilmember Bell, seconded by Councilmember McGowan, and carried by the following roll call vote to adopt Resolution No. 2004-2730, a Resolution of the City Council of the City of Villa Park approving Variance Permit No. 0567, for portions of a wall over 42 inches within the required front setback, with conditions:

AYES:	COUNCILMEMBERS:	Bell, McGowan, MacAloney, Bortle
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	Freschi

STAFF REPORTS:

City Manager:

Land Use Element General Plan Clerical Correction.

City Manager Rodericks reported that on June 21, 1973, the City adopted its General Plan. Subsequent amendments to the General Plan were adopted covering revisions to the Land Use, Noise, Seismic, Public Safety, Circulation, and Housing Elements.

Recent processing of Conditional Use and Variance requests on Morrow Circle by the City Council has prompted an investigation into the land use designations of these properties. The 1991 Land use Map in the General Plan shows the majority of the parcels on Morrow Circle with E-4 Small Estate designations.

Morrow Circle – Tract 8478, Lots 1-9

In 1975, amendments were adopted to the Land Use Element and Land Use Map. The adopted version is included as Exhibit A on the Staff Report.

The 1975 Land Use Map show all parcels on Morrow Circle with a Residential, 3.0 Dwelling Units per Acre zoning designation. This designation equates to the “R-1 13,500” or “R-1 – 12,000” designation on future zoning maps. Lots 1-9 on Morrow Circle average 10,500 square feet with the largest being 12,100 and the smallest being 8,100. The parcel map is included as part of Exhibit A.

Exhibit B is a subsequent revision to the Land Use Element, adopted in 1991. The screen check draft version (attached) of the Land use Map shows Tract 8478, Lots 1-9 as Small Estate Zoning, 20,000 square feet. It also shows the Villa Park Orchards as E-4 Small Estate. The Orchards designation was corrected on the 1991 adopted version to “R-1 – 8,500.” However, Tract 8478 remained with an E-4 zoning designation.

Staff has been unable to locate any explanatory documentation justifying a change from the original “R-1” designation to “E-4” – in the form of staff reports, Council minutes, subsequent plan revisions, and tract map history.

It is staff’s opinion that there was a clerical error on the Land Use Map eliminating the R-1 designation of the lots on Morrow Circle.

It is recommended that the City Council determine that the zoning designation of Tract 8478, Lots 1 through 9 on the 1991 Land Use Map is shown incorrectly and authorize a clerical correction to the General Plan Land Use Map for Morrow Circle to designate Lots 1 through 9 as “R-1 – 12,000” Zoning. By making this correction as a clerical error it is unnecessary to follow the process of amending the General Plan.

It was moved by Councilmember Freschi, seconded by Councilmember McGowan, and carried by the following roll call vote to authorize a correction to the General Plan Land Use Map for Morrow Circle to designate Lots 1 through 9 as “R-1- 12,000” Zoning and by making this correction as a clerical error it is unnecessary to follow the process of amending the General Plan:

AYES:	COUNCILMEMBERS:	Bell, McGowan, Freschi, MacAloney, Bortle
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

City Attorney: No report.

City Clerk: No report.

City Engineer:

Notice of Completion: Villa Isle Area Storm Drain Project.

City Engineer Repke reported that the City awarded a construction contract to Nikola Corporation on September 23, 2003. The project consisted of installation of a 42-inch storm drain conduit located in the rear of the properties on Villa Isle Drive and parallel to and just south of Canyon Drive. The project was authorized as a cooperative project with the four adjacent property owners on a 60% property owner and 40% City cost sharing basis.

All contract work has been completed and accepted by City staff.

The estimated project cost at the time contract was awarded was \$141,200.00. This funding was included in the 2003-04 budget. Final project costs were \$13,356.00.

Staff recommends that the City Council accept the project, authorize the City Clerk to file the Notice of Completion, and authorize a final retention payment of \$10,587.42 to Nikola Corporation upon approval of the City Engineer after completion of the 35-day lien period.

It was moved by Councilmember McGowan, seconded by Councilmember Freschi, and carried by the following roll call vote to accept the project, to authorize the City Clerk to file the Notice of Completion, and to authorize a final retention payment of \$10,587.42 to Nikola Corporation upon approval of the City Engineer after completion of the 35-day lien period:

AYES:	COUNCILMEMBERS:	Bell, McGowan, Freschi, MacAloney, Bortle
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

OTHER BUSINESS: None.

ORAL COMMUNICATIONS: None.

ORDINANCES:

Consideration of Second Reading of Ordinance No. 2003-499 Amending Article 5-14 of Chapter V of the Villa Park Municipal Code Pertaining to Trash Containers.

City Manager Rodericks reported that the City's refuse franchise prohibits any person, other than the City of Villa Park or the authorized refuse collection representative, from placing or leaving a bin, drop-off box or other container for waste services at public or private property in the City. On December 16, 2003 the City introduced Ordinance No. 2003-499 for first reading.

Ordinance No. 2003-499 provides a method for removal of illegal containers placed in the City. A notice period is established providing 24 hours to allow the owner of the container to remove the container without penalty. After 24 hours, the container may be removed and stored by the City and the contents disposed of at the expense of the container's owner. The City directs the removal of the containers through its authorized refuse collection representative, Villa Park Disposal.

If the owner places a subsequent container out in the City, the City may, without the posting of a notice to remove, direct the removal, storage, and disposal. If the owner of a container cannot be identified, the City may authorize the immediate removal, without notice.

The purpose of this ordinance is to address the illegal and/or unauthorized placement of large containers, temporary storage bins, 3-cubic yard containers, and roll-off bins. It is not meant to address residential collection and recycling containers. Contractors who own and use their own refuse containers during construction activity in the City are exempt under the franchise.

This is a cost and revenue neutral ordinance due to the fact that the owner of the container is responsible for reimbursing the City for the actual cost of removal, storage, and disposal. All amounts due must be paid before the container may be returned to the owner.

It is recommended that the City Council accept for second reading and adopt Ordinance No. 2003-499, an Ordinance of the City Council of the City of Villa Park adding Article 5-14 of Chapter V of the Villa Park Municipal Code pertaining to trash containers.

It was moved by Mayor Pro Tem MacAloney, seconded by Councilmember Freschi, and carried by the following roll call vote to approve the second reading and adopt Ordinance No. 2003-499 amending Article 5-14 of Chapter V of the Villa Park Municipal Code pertaining to trash containers:

AYES:	COUNCILMEMBERS:	Bell, McGowan, Freschi, MacAloney, Bortle
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

RESOLUTIONS: None.

CLOSED SESSION: None.

ADJOURNMENT:

It was moved by Mayor Bortle and carried unanimously to adjourn the meeting at 10:20 PM to the Town Hall Meeting on February 10, 2004 at 7:30 PM.

Patricia L. Bortle, Mayor
City of Villa Park

ATTEST:

George J. Rodericks, City Clerk
City of Villa Park