

**MINUTES
SARATOGA PLANNING COMMISSION**

DATE: Wednesday, June 14, 2006
PLACE: Council Chambers/Civic Theater, 13777 Fruitvale Avenue, Saratoga, CA
TYPE: Regular Meeting

Chair Rodgers called the meeting to order at 7:05 p.m.

ROLL CALL

Present: Commissioners Cappello, Hlava, Hunter, Kundtz, Nagpal, Rodgers and Zhao
Absent: None
Staff: Director John Livingstone, Associate Planner Lata Vasudevan, Assistant Planner Suzanne Thomas and Assistant City Attorney Jonathan Wittwer

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – Regular Meeting of May 24, 2006.

Motion: Upon motion of Commissioner Cappello, seconded by Commissioner Kundtz, the Planning Commission minutes of the regular meeting of May 24, 2006, were adopted with a correction to page 9. (5-0-2; Commissioners Hunter and Nagpal abstained)

ORAL COMMUNICATION

There were no Oral Communications.

REPORT OF POSTING AGENDA

Director John Livingstone announced that, pursuant to Government Code 54954.2, the agenda for this meeting was properly posted on June 8, 2006.

REPORT OF APPEAL RIGHTS

Chair Rodgers announced that appeals are possible for any decision made on this Agenda by filing an Appeal Application with the City Clerk within fifteen (15) calendar days of the date of the decision, pursuant to Municipal Code 15-90.050(b).

CONSENT CALENDAR

There were no Consent Calendar Items.

PUBLIC HEARING - ITEM NO. 1

APPLICATION #04-189 (389-46-013 &013) – SUB-ACUTE, 13425 Sousa Lane: The applicant has made changes to the project site's landscaping, which are not in compliance with an approved site plan and modify the site plan to add a children's play area to the rear yard. The Planning Commission will consider amending the approved site plan to allow for the changes or require the applicant to comply with the approved site plan. The site is zoned R-1 10,000. (Therese Schmidt) **Item continued due to noticing error.**

Director John Livingstone presented the staff report as follows:

- Advised that due to a noticing error, a motion is requested continuing action on this item to the next meeting on June 28, 2006.

Motion: Upon motion of Commissioner Hunter, seconded by Commissioner Nagpal, the Planning Commission CONTINUED consideration of Application #04-189 (Sub Acute - 13425 Sousa Lane) to the next Planning Commission meeting on June 28, 2006, by the following roll call vote:

AYES: Cappello, Hlava, Hunter, Kundtz, Nagpal, Rodgers and Zhao
NOES: None
ABSENT: None
ABSTAIN: None

PUBLIC HEARING - ITEM NO. 2

APPLICATION #06-208 (517-38-005, 517-38-006, 517-38-007) – WOODS, 15595 Peach Hill Road: Between June 9, 1999 and January 12, 2000, the applicant received Planning Commission approval for all required entitlements for this project and had commenced construction. However, due to inactivity, the building permits expired, which in turn voided the Planning Commission approval of all entitlements. The applicant is now ready to resume construction and is requesting that the Planning Commission approve the following entitlements that were previously granted: (1) Design Review Approval to construct a 6,769 square-foot, two-story residence. (2) Use Permit approval to allow a water tank within the rear setback and an emergency generator. (3) Variance approval to allow retaining walls in excess of 5 feet in height. (4) Grading Exception approval to allow grading in excess of 1,000 cubic yards for a parking lot on an adjacent 6.2-acre parcel. The project site is 10.8 acres and is located in the Hillside Residential zone. (Suzanne Thomas)

Assistant Planner Suzanne Thomas presented the staff report as follows:

- Advised that the applicant is seeking a number of applications including Design Review, Grading Exceptions, Variances and Use Permits.
- Said that this project has an interesting history. In 1988, the first phase of the subdivision was approved for five buildable lots including the two under discussion this evening. They

were previously identified as Lots 4 and 5. Today they are identified as Lots 1 and 2 for this project.

- Reported that in 1999/2000, the applicant secured approvals for all entitlements to develop these two lots. The project was under construction for several years.
- Explained that Building Permits expire if they are dormant for 180 days. Once a Building Permit expires the corresponding Planning Commission approvals also expire.
- Informed that the applications before the Commission this evening are the same applications that were approved in 1999/2000.
- Described the requests as follows:
 - Lot 1
 - Design Review: The applicant seeks Design Review Approval to allow a single-family residence. The residence is 4,000 square feet with a maximum height of 21.5 feet and including a 1,900 square foot basement. This home's construction is well underway. A pool and terrace are also under construction. This home is consistent with Design Review findings. It follows the contours of the property, uses materials such as natural stone and is set back 400 feet from the front property line.
 - Grading Exception: Explained that Hillside Districts are restricted to 1,000 cubic yards of cut or fill grading. With the required cut into the hillside and the 1/10 of a mile long driveway, this requirement is exceeded and an Exception is required. The applicant worked with Fire to reduce the width of the driveway. The findings to support this Grading Exception can be made in the affirmative.
 - Variance: A Variance for retaining wall height is required for a 30-foot horizontal distance that exceeds 10 feet in height. To support a Variance, the findings must be made that this does not represent a special privilege nor is the Variance detrimental to the health, safety and welfare of the community. This is a steep lot and without this Variance for retaining wall heights more grading and loss of more trees would result. The retaining walls help protect the health, safety and welfare by preventing slides.
 - Conditional Use Permit: Approval of an emergency generator requires a Conditional Use Permit. Acoustical testing has been provided. The level at the nearest neighbor reads at less than 25 decibels, which is comparable to a whisper.
 - Reminded that all of the entitlements for Lot 1 were previously approved.
 - Lot 2
 - Grading Exception: Said that required findings could be made since a stable flat area is required to place water tanks. This lot is even steeper than Lot 1.
 - Variance: A Variance for retaining wall height of 8 feet is required to hold the well and water tank. Stated that the steep topography equals a special circumstance. The required findings can be made to support this Variance.
 - Use Permit: A Use Permit is required to allow a water tank with a maximum height in excess of the 12-foot height allowed for accessory structures. This water tank serves to protect the health, safety and welfare of the entire subdivision by providing fire protection.
 - Explained that the Arborist reviewed all reports. One hundred (100) trees have been planted and more are proposed.
 - Said that neighbor notification was sent to property owners within 500 feet of this property. One negative comment was received expressing concerns about

potential uses of the parking area for valet parking services for parties in the neighborhood.

- Said that all findings can be made to support the requests for Lot 2.
- Corrected Page 24, Item 17 of the Resolution to fix the sequence of numbering for items 15 & 16 instead of the numbers 14 & 15 that appears.
- Corrected Page 28, first paragraph, Line 5, to remove the word “a” that appears before the text, “water tanks.”
- Stated that she is available for questions and that the applicant is here.

Commissioner Hunter said that she is surprised at the exceptions approved for this property eight years ago. She asked staff if this project could have been built if that Planning Commission eight years ago had said no to all of these exceptions.

Planner Suzanne Thomas said she is not certain since she is not an engineer.

Director John Livingstone said that a project could have been approved but not this existing design. It would not have worked without these exceptions.

Commissioner Hunter said that she is surprised at the large number of exceptions granted and suggested that this would not be allowed today.

Director John Livingstone said he agrees with Commissioner Hunter.

Commissioner Hunter added that this project would be stopped at the counter today.

Commissioner Nagpal thanked Planner Suzanne Thomas for her great staff report.

Chair Rodgers said that the report was a lot of work since there are two different lots involved.

Chair Rodgers opened the Public Hearing for Agenda Item No. 2.

Mr. Murray Woods, Applicant and Property Owner, 15595 Peach Hill Road:

- Explained that his architect is currently suffering from pneumonia.
- Acknowledged the work of Planner Suzanne Thomas, saying she was very professional in dealing with this project. She is thorough, courteous and responsible.
- Said he has an issue with one of the conditions that relate to the interpretation by staff of what represents impervious versus pervious surfaces as it relates to the allowable coverage rule.
- Said that there was only one available site for the house on the lot that required the minimum of grading and tree impact.
- Stated that 5,000 square feet of impervious coverage is required for the driveway to get up to the entry of the house. A total of 15,000 square feet of impervious coverage is allowed on this parcel.
- Pointed out that in Woodside, they also have a 15,000 square foot impervious coverage rule but they only count the first 60 feet of driveway against that coverage allowance to encourage houses to be placed as far back on a property as possible. He said that this is an interesting approach that Saratoga should consider.

- Reminded that his driveway is 150 feet long. Additionally, Fire has required him to install a fire truck turnaround. He explained that turf block has the strength to serve that function.
- Added that the impervious coverage is already 8,000 square feet prior to including the house. With the house it is at the total of 15,000 square feet.
- Advised that this 15,000 square foot of coverage represents only a total of 7.5 percent of impervious coverage overall for the entire lot. The coverage is represented by the house, drive, pool and patio.
- Said that a lot of effort was taken by his architect, landscape architect and engineer to fall within the allowable 15,000 square foot impervious coverage.
- Pointed out that the original proposal included partial use of pervious turf block for the approach part of the fire turnaround. This is a good way of solving impervious surface problems.
- Added that he also had approval originally for a pervious crushed granite pathway leading from the parking lot laterally to the house.
- Stated that his issue this evening is the fact that the Planning Department wants to count turf block and the granite path against the impervious surface total requiring a reduction overall of impervious surfaces on the site.
- Quoted from a May 2003 report prepared by the Bay Area Storm Water Management Agency that described runoff factors for numerous paving materials. While glass would have a factor of 1, concrete a factor of 8, asphalt a factor of 7, grass has a factor of .1 and turf block has a factor of .15 and crushed aggregate a factor of .1. He said that this report encourages the use of turf block.
- Said he is not asking for an exception to the total allowed impervious surface area but rather a different interpretation on what constitutes impervious versus pervious surfaces.
- Said he is simply asking that these two surfaces (turf block and crushed granite) proposed be counted, as they were before, as pervious rather than impervious coverage.
- Said that this is a very fair proposal.

Commissioner Hunter asked Mr. Murray Woods to clarify if he is asking for approval to add a pool and decking since he has reached his impervious coverage allowances.

Mr. Murray Woods:

- Said no, everything was originally approved, including the pool.
- Added that turf block was counted originally as pervious and now is being counted as impervious under current staff's new interpretation.
- Concluded by saying he is simply asking that the Planning Commission and Planning Department use the same interpretation as during the original approval by counting the turf block and crushed granite path as pervious.

Commissioner Hlava sought clarification that this project is before the Commission once again because the permit lapsed and that rules have changed since that lapse.

Mr. Murray Woods said there is simply a change in interpretation of impervious versus pervious surfaces. He reiterated that turf block functions and looks like grass.

Commissioner Hlava asked about the apparent gas fireplace proposed for the home theatre. She said that she is not thrilled with wood fireplaces in Hillside districts.

Mr. Murray Woods explained that there is one wood-burning fireplace (a Rumford-style fireplace) in the living room. While the fireplace in the theatre looks to be wood burning it is actually gas.

Commissioner Hlava asked staff if wood burning fireplaces are allowed in Hillside zoning districts.

Commissioner Hunter replied yes, including outdoor fireplaces or fire pits.

Commissioner Hlava asked Mr. Murray Woods what the impact to his plans would be as a result of requiring a gas fireplace in the living room.

Mr. Murray Woods said he would lose the beauty and efficiency of the Rumford fireplace.

Chair Rodgers closed the Public Hearing for Agenda Item No. 2.

Chair Rodgers suggested that both Resolutions be considered separately, starting with the Resolution for Lot 1.

Commissioner Nagpal said while there are a lot of issues about this application she could talk about, this project is well under way and substantially complete. Therefore, she is ready to accept the Resolution as stated.

Director John Livingstone explained the staff position on impervious versus pervious surfaces. He said that Code talks about impervious surfaces as including gravel and brick with sand. However, since this Ordinance was written, lots of excellent pervious products have become available. He added that the issue is not just about water drainage but also about aesthetics and the desire to have landscape areas in addition to hardscape.

Commissioner Nagpal said that if the turf block looks like grass she is okay with it.

Director John Livingstone said that the applicant is asking for the project to be re-approved as originally approved.

Chair Rodgers said if so, this approval would be without Condition 11.

Commissioner Hlava:

- Said that she wants to make the finding that turf block and crushed granite are pervious surfaces, delete Condition 11 and approve the original plans since the project is already three-quarters complete.
- Said that this is quite an amazing site.

- Stated that in the future, if the Commission has to deal with similar issues it will likely make different decisions.
- Restated that she will support approval since the project is so far along.

Commissioner Zhao agreed with Commissioner Hlava. She reported that she did not have the opportunity to visit the site.

Commissioner Kundtz said he was sensitive to the idea that removing Condition 11 might create precedent.

Director John Livingstone replied that this is a unique circumstance and would not be precedent setting in this particular case.

Commissioner Kundtz agreed and said he is happy to approve this item without Condition 11.

Commissioner Cappello agreed and said he felt that staff is approaching the impervious coverage process in a logical manner that is the right approach. He said he would have no problem approving this project with the removal of Condition 11.

Commissioner Hunter reminded that this project was approved eight years ago. It is nearly done. If this were a new project before the Commission, there would be more questions. She said that she too has no problem removing Condition 11.

Chair Rodgers:

- Said that if this were a new project, she probably would not approve it and would expect adherence to the 15,000 square foot impervious coverage limitation with the use of new techniques in pervious materials.
- Stated that she has problems with retaining walls.
- Explained that she does not like setting precedent that might be used to approve similar projects in the future.

City Attorney Jonathan Wittwer said that it is a good solution to make this decision based upon the previous approval. He said that legal theory justifies making that decision in that way. The concept is called vested rights although this is not a perfect example of that concept.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Hlava, the Planning Commission adopted a Resolution (Application #06-208-Lot 1) granting Design Review Approval for a single-family residence, two Grading exceptions, a Variance to allow retaining walls in excess of the 10 feet maximum height allowed in the Hillside District and a Use Permit to permit an emergency generator on property located at 15595 Peach Hill Road, with the deletion of Condition 11 on page 23, by the following roll call vote:

AYES: Cappello, Hlava, Hunter, Kundtz, Nagpal, Rodgers and Zhao
NOES: None

ABSENT: None
ABSTAIN: None

Chair Rodgers listed the entitlements sought for Lot 2 that include a Grading Exception, a Variance for retaining wall heights and a Use Permit for water tanks in the rear setback that exceeds maximum heights allowed for accessory structures.

Motion: Upon motion of Commissioner Hlava, seconded by Commissioner Zhao, the Planning Commission adopted a second Resolution (Application #06-208-Lot 2) granting a Grading Exception, a Variance to allow retaining walls in excess of the 10 feet maximum height allowed in the Hillside District and a Use Permit to permit water tanks in excess of the maximum height allowed for accessory structures on property located at 15595 Peach Hill Road, by the following roll call vote:

AYES: Cappello, Hlava, Hunter, Kundtz, Nagpal, Rodgers and Zhao
NOES: None
ABSENT: None
ABSTAIN: None

PUBLIC HEARING - ITEM NO. 3

APPLICATION #06-323 (517-10-005) – SLOAN (applicant)/ROBINSON (owner), 14524 Oak Street: The applicant on behalf of the owner is requesting Design Review Approval to construct a two-story home that will have 2,521 square feet of living area with an attached 488 square foot garage. The maximum height of the home will be approximately 26 feet and will be situated on a 19,391 square foot vacant lot situated behind another lot fronting Oak Street that is the site of an existing two-story historic home currently being remodeled. The property is located in the R-1-10,000 zoning district. (Lata Vasudevan)

Associate Planner Lata Vasudevan presented the staff report as follows:

- Advised that the applicant is seeking Design Review Approval to allow the construction of a new two-story single-family house with attached garage. The maximum height is 26 feet.
- Described the property as a vacant lot located behind the historic Patrick House that has an ingress/egress easement access.
- Said the property is surrounded by mature trees including one redwood, one maple, one valley oak and seven coast live oaks. The conditions outlined in the Arborist report have been incorporated.
- Reported that the garage and deck would be constructed using pier and beam construction that is above ground so as not to disturb the roots of the nearby oak tree.
- Said that neighbor letters were received with only favorable comments. No negative comments were received so far.
- Advised that Design Review findings can be made in the affirmative.
- Recommended that the Planning Commission find this project Categorical Exempt under CEQA and grant this Design Review Approval.
- Distributed the project color board.

- Stated that the project architect is in the audience and can discuss the pier and beam design for around the trees.

Commissioner Hunter asked if there is no basement proposed because of the trees.

Planner Lata Vasudevan replied no. A basement was not requested by the applicant as they were not interested in having one. She asked them to be sure.

Chair Rodgers opened the Public Hearing for Agenda Item No. 3.

Mr. Tom Sloan, Project Architect:

- Said that this is an open site with large trees.
- Stated that his clients consulted with the Planning Department and Arborist Barrie Coate prior to even hiring him as architect.
- Said that Barrie Coate gave them the thumbs up as far as putting a house on this parcel.
- Pointed out that this is a modest house consisting of 2,500 square feet.
- Advised that when planning this site, the first thing he determined was the placement for the fire truck turnaround. He chose a T-style turnaround close to the end of the property toward the front. That gave the basis to attach the garage to that. They looked at several locations for the garage. They wanted the garage to have a carriage/farmhouse appearance. It will be constructed on a pier and beam foundation. It results in levitation on the ground supported on piers. These piers would be hand dug to protect tree roots.
- Stated that the porch element breaks up massing and adds horizontal lines to this home. It is not a very large home. His clients could have asked for more but they are getting a nice house that fits the Village atmosphere.
- Informed that four different arborists have prepared reports over time and they are following the strictest guidelines of all those reports. His clients want to protect these trees that they love. Additionally, they have a \$290,000 bond on these trees.

Commissioner Hunter asked how long the bonds are required.

Mr. Tom Sloan said he believes about a year and a half.

Planner Lata Vasudevan clarified that the City holds the bond until the project is finished and the Arborist goes out and does a final inspection to release the bond.

Commissioner Hunter cautioned that oftentimes the decline in trees occurs two to three years after the project is completed.

Ms. Deirdre Robinson, Property Owner:

- Explained that a big reason she and her husband purchased this lot is the trees.
- Added that she likes the neighborhood and being close to downtown.
- Said that they have tried to design a house that fits the style of the neighborhood.
- Advised that they plan to stay here a long time.

Chair Rodgers closed the Public Hearing for Agenda Item No. 3.

Commissioner Hunter:

- Welcomed the Robinsons to the neighborhood, explaining that it is her neighborhood too. It is a wonderful neighborhood and it is great that they are there.
- Said that she is proud of the history and trees in this neighborhood and she is thrilled to have the Robinsons as neighbors.
- Advised that they just missed a block party and will have to wait six months for the next one.
- Stated that this is a lovely design and wished the Robinsons good luck.

Commissioner Kundtz said that he has nothing to add. He also welcomed the Robinsons and said this is a great house.

Commissioner Hlava said that she wished all applications were this easy. This house is real pretty.

Commissioner Cappello complimented the design and expressed appreciation for their efforts.

Commissioner Zhao said she likes the design and also welcomes the Robinsons to the neighborhood.

Chair Rodgers said that this is a beautiful house and that great strides were taken to preserve trees. She expressed her appreciation for the great room design of this house.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Hunter, the Planning Commission adopted a Resolution granting Design Review Approval (Application#06-323) to allow the construction of a new two-story home on property located at 14524 Oak Street, by the following roll call vote:

AYES: Cappello, Hlava, Hunter, Kundtz, Nagpal, Rodgers and Zhao

NOES: None

ABSENT: None

ABSTAIN: None

DIRECTOR'S ITEMS

There were no Director's Items.

Chair Rodgers asked staff if any Planning Commission items are pending appeal before Council.

Director John Livingstone reported that the Fence Exception denied for Congress Springs was appealed. However, upon modification of the plans, the appeal was withdrawn.

COMMISSION ITEMS

There were no Commission Items.

COMMUNICATIONS

There were no Communications Items.

ADJOURNMENT TO NEXT MEETING

Upon motion of Commissioner Hlava, seconded by Commissioner Cappello, Chair Rodgers adjourned the meeting at 8:17 p.m. to the next Regular Planning Commission meeting of **June 28, 2006**, at 7:00 p.m.

MINUTES PREPARED AND SUBMITTED BY:
Corinne A. Shinn, Minutes Clerk