

**MINUTES
SARATOGA PLANNING COMMISSION**

DATE: Wednesday, April 11, 2007
PLACE: Council Chambers/Civic Theater, 13777 Fruitvale Avenue, Saratoga, CA
TYPE: Regular Meeting

Chair Rodgers called the meeting to order at 7:00 p.m.

ROLL CALL

Present: Commissioners Hlava, Kumer, Nagpal, Rodgers and Zhao
Absent: Commissioners Cappello and Kundtz
Staff: Senior Planner Chris Riordan and Assistant City Attorney Jonathan Wittwer and Associate Planner Therese Schmidt

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – Regular Meeting of March 14, 2007.

Motion: Upon motion of Commissioner Hlava, seconded by Commissioner Zhao, the Planning Commission minutes of the regular meeting of March 14, 2007, were adopted as amended by the Commission on March 28th and upon confirmation with one of the speakers that evening on one comment made. (4-0-2-1; Commissioners Cappello and Kundtz were absent and Commissioner Kumer abstained)

APPROVAL OF MINUTES – Regular Meeting of March 28, 2007.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Hlava, the Planning Commission minutes of the regular meeting of March 28, 2007, were adopted with changes to pages 6,7,9 and 21. (5-0-2; Commissioners Cappello and Kundtz were absent)

ORAL COMMUNICATION

There were no Oral Communications.

INTRODUCTION OF NEW SENIOR PLANNER CHRIS RIORDAN

Chair Rodgers introduced new Senior Planner Chris Riordan who is staffing this evening's meeting in place of Director John Livingstone who is on vacation.

REPORT OF POSTING AGENDA

Senior Planner Chris Riordan announced that, pursuant to Government Code 54954.2, the agenda for this meeting was properly posted on April 5, 2007.

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 #07-192 (503-19-036) Orphan, 20720 Leonard Road; - The applicant requests a Modification to a Design Review Approval granted by the Planning Commission at their June 14, 1995, hearing, which consisted of construction of a 5,132 sq. ft., two-story, single-family, residence with attached garage. The proposed modification would allow for a second-story balcony, modification of exterior architectural features, and a change in the proposed sq. ft. of the structure. The lot size is approximately 1.2 acres and the site is zoned R-1 40,000. (Therese Schmidt)

Senior Planner Chris Riordan presented the staff report as follows:

- Explained that the applicant is seeking approval of exterior modifications to a 5,100 square foot residence that was originally approved by the Planning Commission in June 1995.
- Reported that this applicant purchased the project during construction.
- Said that the project is now complete and ready for final occupancy.
- Advised that staff had determined in December that there had been some modifications to the approved plans including the addition of a second story balcony that is adjacent to the master bedroom; modifications to some exterior architectural elements and the addition of 74 square feet to the kitchen.
- Informed that Design Review findings can be made in the affirmative for all changes.
- Recommended approval and that the project is found to be Categorically Exempt under CEQA (California Environmental Quality Act).
- Stated that a new draft resolution has been distributed this evening, as there were some typographical errors in the resolution included in the packet.
- Added that the Commission minutes from the 1995 meeting were also provided this evening at the request of Chair Rodgers.

Chair Rodgers asked Senior Planner Chris Riordan to highlight the changes made to the resolution.

City Attorney Jonathan Wittwer:

- Explained that a number of the changes were at his request.
- Said that the original resolution had a final WHEREAS clause that stated that this resolution supercedes the original, which should be removed from the resolution, while a new condition states that the conditions are in addition to the project's original conditions of approval.
- Added that Section 2 was removed and the subsequent conditions renumbered, as it did not apply.

Chair Rodgers asked if any of the changes to the 1995 permit would establish precedent to future projects.

City Attorney Jonathan Wittwer replied no. He reminded that there was no clearance given. Instead these modifications were brought back to the Planning Commission, which can approve or deny the changes. There is no precedent but rather something like this is handled on a case-by-case basis.

Commissioner Nagpal said that the goal is to evaluate these modifications to the original approval and make sure that Design Review findings can be made.

Chair Rodgers asked if they must meet 2007 requirements.

City Attorney Jonathan Wittwer replied yes.

Commissioner Hlava:

- Reported that she did not have the chance to see the property in person.
- Added that she tried to go on her own, having missed the site visit, but the gate was closed.
- Asked for clarification that the only modifications are the added 74 square feet and a balcony on the second floor.

Senior Planner Chris Riordan added that two columns near the front entrance were also eliminated.

City Attorney Jonathan Wittwer pointed out that the original Design Review Approval was for a 21.5-foot tall structure. However, the approved Building plans depicted a 23.5-foot maximum height.

Commissioner Nagpal restated that the modifications were the added 74 square feet, the balcony and architectural changes to the exterior including elimination of two columns and changes to balconies.

Commissioner Hlava asked if the actual railings have sunbursts.

Commissioner Nagpal replied yes. She reported that a chimney detail is not there and that a window on the east elevation had a proposed detail that was not installed.

Chair Rodgers reported that the window was installed inside out so they couldn't put the wrought iron detail there. She asked staff to clarify that there is a different method for measuring the height of buildings today than was used in 1995.

Senior Planner Chris Riordan replied yes. He said that in 1995, height was measured from natural grade. Today maximum height is derived from averages. He assured that this project is still under the maximum allowed 26-foot height limit used today.

Commissioner Nagpal asked when this application started.

Senior Planner Chris Riordan replied that the applicant purchased this project when the house was ready for plaster.

Chair Rodgers opened the public hearing for Agenda Item No. 1.

Mr. Angelo Orphan, Applicant and Property Owner:

- Reported that he purchased this property in December 2003.
- Explained that prior to his purchase he went to the Building Department and asked for a copy of the plans.
- Stated that he also asked the Building Department if there were any red flags for this project and was told no, just finish the construction, and they renewed the permit.
- Said he hired a first contractor that didn't work out and had to hire another contractor.
- Advised that the house was about 60 percent completed when he bought it and that he was not going to change anything structurally from the plans.
- Added that he was going to change some things inside including interior stairs and flashing indoors.
- Said that when they thought the project was complete, all of the sudden the house didn't match the plans.
- Agreed that he is guilty of two things. One, the elimination of the columns by the front door as they were too big, and two, using railings for the balconies instead of cement and stone. He said he wanted metal that is lighter and more airy in appearance.

Commissioner Hlava asked how the extra 74 square feet happened.

Mr. Angelo Orphan said that this square footage was added when the foundation was poured. He explained that the house is metal framed. Construction workers who normally work commercial jobs did the metal framing by working on weekends. The neighbors were not happy about that.

Chair Rodgers reported that the original applicants divorced.

Mr. Angelo Orphan said yes. He added that the husband who thought he had somehow collaborated with the wife in the process of purchasing this house almost sued him.

Commissioner Nagpal thanked Mr. Angelo Orphan for the site visit. She said that there is a need for an architectural feature to balance the one window.

Mr. Angelo Orphan:

- Said that he cannot exchange the window, as the company does not make that particular style of window any longer so the windows would not match.
- Assured that he can put something in that would meet the wishes of this Commission.
- Stated that he would bring a window person in to evaluate what is possible.
- Reiterated that this line of windows, from Canada, is not available any more.

Commissioner Nagpal asked about the use of a different metal railing.

Mr. Angelo Orphan said that he simply liked it better.

Commissioner Kumer asked Mr. Angelo Orphan when he figured out that there had been variations to the approval plan.

Mr. Angelo Orphan said he never really did. He was happy with the house and Planner Therese Schmidt discovered the problems when she visited the site in December. Even his contractor didn't realize it.

Chair Rodgers asked about access to the balcony on the back.

Mr. Angelo Orphan explained that there is access from the little bedroom but not from the master bedroom.

Chair Rodgers said that this struck her as an odd design.

Mr. Angelo Orphan said that they kept things as basic and close to what is there rather than change things too much. He reported that he had to take out the staircases and put new ones in, as they were not properly constructed.

Chair Rodgers asked about the required trees.

Mr. Angelo Orphan said that they have been planted.

Chair Rodgers asked how long ago.

Mr. Angelo Orphan said approximately five to six months.

Chair Rodgers said that the trees shield the balcony area pretty well.

Mr. Angelo Orphan agreed. He added that the rear neighbor did not say anything against this balcony.

Commissioner Kumer asked Mr. Angelo Orphan if he had met with that neighbor.

Mr. Angelo Orphan replied yes. He added that he met with all his neighbors. He reiterated that the rear neighbor had no issue with the balcony. He told that neighbor he would be willing to put in more trees, if necessary.

Commissioner Kumer reiterated that there is no issue there.

Mr. Angelo Orphan replied no.

Chair Rodgers stated that there doesn't appear to be room for more trees in that area.

Commissioner Zhao asked Mr. Angelo Orphan if he had any response from the owner behind the master bedroom.

Mr. Angelo Orphan replied that there were no concerns raised by that neighbor. That neighbor signed the required notification form. He added that all of his neighbors, but for one woman, signed off on the project. The one woman was uncomfortable opening her door to a strange man in the early evening that he visited, which he completely understood. He said that this neighbor did interact directly with Planner Therese Schmidt.

Chair Rodgers closed the public hearing for Agenda Item No. 1.

Commissioner Nagpal:

- Reminded that this original authorization was granted 12 years ago.
- Pointed out that Mr. Angelo Orphan has gone through quite a bit with this project.
- Advised that she can make the findings again for this project.
- Said that she had been concerned about the second floor balcony and that the minutes from 1995 show that no one specifically had spoken out against balconies.
- Said that this project remains within compliance standards.
- Added that she would have liked to see the architectural columns installed but understands that Mr. Orphan's preference was not to have them.
- Said that she would like to see the possibility of putting in some feature outside that window.
- Expressed appreciation for Mr. Angelo Orphan's work getting this project back on track.
- Stated that she can support this application.
- Acknowledged Brad from the Building Department who is in attendance this evening in case he is needed.

Commissioner Zhao:

- Agreed that the differences from the original approval are not major but there is a lack of some architectural details.
- Supported the addition of a wrought iron element to the one window currently without that detail.
- Said that she can live with the differences and can make the findings to support this project by today's standards.

Commissioner Kumer:

- Said that he too prefers the use of wrought iron to concrete for the railings. That was a good change.
- Said that he is not too hung up on the loss of the two pillars.
- Pointed out that the balcony appears not to be an issue with the neighbors.
- Stated that Mr. Orphan has gone through a lot with this project and that he is ready to support approval of the modifications.

Commissioner Hlava:

- Said that she is not sure if she can make the findings since she didn't make the site visit.
- Announced that she would abstain from the vote not because she is against Mr. Orphan but simply because she cannot be sure of her opinion without having seen the house personally.

Chair Rodgers:

- Said that she agrees with everyone else.
- Stated that the kitchen addition was a good improvement.
- Said that, as for the balcony upstairs, she is not sure what she would have voted if it had come to the Commission originally but that the trees help to screen it.
- Stated that balcony access from a second bedroom rather than the master is odd but there is another balcony at the front that serves the master bedroom.
- Suggested that the elimination of columns is a personal preference and that the porch is kind of small for them anyway.
- Agreed that the second floor window needs the wrought iron detail.
- Advised that it bothers her that the windows were installed inside out. She said that this poses a security problem.
- Asked that the wrought iron detail be installed far out enough that the window can be opened.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Zhao, the Planning Commission approved a Modification (Application #07-192) to a Design Review Approval that was originally granted by the Planning Commission at their June 14, 1995, hearing that would allow for a second-story balcony, modification of exterior architectural features, and a change in the proposed square footage of the structure on property located at 20720 Leonard Road, with the resolution as amended by staff and with the added condition:

- That a wrought iron window detail for the second floor window be installed that is consistent with the wrought iron in the rest of the house and in such a way that the window can be opened,

by the following roll call vote:

AYES: Kumer, Nagpal, Rodgers and Zhao

NOES: None

ABSENT: Cappello, Kundtz

ABSTAIN: Hlava

DIRECTOR'S ITEMS

There were no Director's Items.

COMMISSION ITEMS

Chair Rodgers advised that on April 24, 2007, Council would conduct an additional Study Session on the General Plan.

COMMUNICATIONS

There were no Communications Items.

ADJOURNMENT TO NEXT MEETING

Upon motion of Commissioner Nagpal, seconded by Commissioner Hlava, Chair Rodgers adjourned the meeting at 7:46 p.m. to the next Regular Planning Commission meeting of **April 25, 2007**, at 7:00 p.m.

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