

**MINUTES
SARATOGA PLANNING COMMISSION**

DATE: Wednesday, May 9, 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 Cappello, Kumar, Kundtz, Nagpal, Rodgers and Zhao
Absent: Commissioner Hlava
Staff: Director John Livingstone, Senior Planner Chris Riordan, Assistant Planner Suzanne Thomas and Assistant City Attorney Jonathan Wittwer

PLEDGE OF ALLEGIANCE

ELECTION OF NEW CHAIR AND VICE CHAIR

Chair Rodgers advised that it is time to select the new Chair and Vice Chair.

Commissioner Nagpal asked whether this action could be continued since the full Commission is not present with the absence of Commissioner Hlava. She asked if a vote would be necessary to continue this action

City Attorney Jonathan Wittwer replied yes and suggested that the Commission take action to place this on the next agenda.

Commissioner Cappello agreed that it would be wise to wait.

Chair Rodgers advised that the election of the Chair and Vice Chair would be on the next agenda.

APPROVAL OF MINUTES – Regular Meeting of April 25, 2007.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Zhao, the Planning Commission minutes of the regular meeting of April 25, 2007, were adopted with corrections to pages 2, 10, 14, 19 & 29 and the correction of the spelling of Commissioner Kumar's name throughout. (6-0-1; Commissioner Hlava was absent)

ORAL COMMUNICATION

There was no oral communication.

REPORT OF POSTING AGENDA

Director John Livingstone announced that, pursuant to Government Code 54954.2, the agenda for this meeting was properly posted on May 3, 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 #07-275 (386-01-026) PEET'S COFFEE AND TEA (tenant)/ K & S CO. (property owner); 12148 Saratoga-Sunnyvale Road: - The applicant requests a Conditional Use Permit to establish a restaurant in an existing approximately 2,400-square foot vacant tenant space, which was formerly occupied by a title company. The site is zoned C-V.

Associate Planner Suzanne Thomas presented the staff report as follows:

- Reported that the applicant is seeking approval of a Conditional Use Permit, Sign Permit and Design Review Approval to establish a new coffee and tea shop at 12148 Saratoga-Sunnyvale Road.
- Explained that this tenant space is located at Park Saratoga Center, which is at the corner of Saratoga-Sunnyvale Road and Prospect.
- Said that the site is zoned Commercial-Visitor.
- Added that the space has been vacant for approximately one year and was previously occupied by a title company.
- Stated that this use is considered to be a restaurant use and as such per Code requires approval of a Conditional Use Permit by the Planning Commission.
- Advised that the Saratoga Center has a mix of uses including restaurant, office and medical uses.
- Said that outdoor seating would be provided in such a way that it would not impede pedestrian traffic.
- Informed that to meet Fire and Building Code requirements, two single exit doors are being installed to the front elevation. Changes to the exterior will match existing building materials.

- Distributed exhibits of typical Peet's Coffee and Tea restaurants.
- Explained that the hours of operation for Peet's is from 5 a.m. to 10 p.m. However, staff is not limiting hours in the conditions of approval in order to offer Peet's flexibility.
- Said that neighbors were contacted by the applicant both in the center and in the adjacent residential area located behind.
- Added that staff sent out a 500-foot notification as well.
- Reported that no negative comments were received.
- Stated that the signs would be compliant with the program in place for the Saratoga Center.
- Said that traffic and parking studies show that no significant parking or traffic impacts will result from this use.
- Informed that the necessary findings to support the Conditional Use Permit, Design Review Approval and Sign permit can be made.
- Said that the residential area behind would not suffer adverse impacts as the building itself buffers the use from the residences.
- Recommended approval.

Commissioner Cappello asked if the customer traffic is heaviest for Peet's in the morning.

Planner Suzanne Thomas replied yes. Most of their customer traffic occurs prior to 10 a.m.

Commissioner Kundtz pointed out that there is a petition with 66 signatures in favor of this application as well as other independent signatures offering support. He asked for verification that there have been no negative comments received.

Planner Suzanne Thomas assured that all comments were positive.

Commissioner Nagpal suggested that the outdoor seating be moved more under the trellis.

Planner Suzanne Thomas advised that as conditioned the final placement of the outdoor seating would be left to the discretion of the Community Development Director.

Chair Rodgers pointed out that there are currently two emergency exits at the back of this tenant space. It appears only one will remain. She asked if this removal of one exit is intentional.

Planner Suzanne Thomas explained that those two existing exits at the back of the shop could not be counted against the emergency exit requirements because they are not ADA compliant.

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

Ms. Carol Mazzetti, Real Estate Director, Peet's Coffee and Tea:

- Reported that Peet's celebrated its 40th anniversary last year. The business started in 1966 in Berkeley. It is a Bay Area institution.
- Added that they are excited to come to Saratoga.

- Stated that Peet's is different from other coffee businesses in that 50 percent of their sales are coffee beans and packaged teas. They have a huge selection of teas.
- Reiterated that they are a retail establishment as well as a restaurant.
- Informed that 40 percent of their business occurs before 10 a.m. and that goes up to 50 percent by 11 a.m.
- Reminded that some of the other uses in this center are closed on weekends.
- Said that they believe that this will be a great center for them to be located in. They will fit in well with the other tenants.
- Added that she has met the other tenants and they are all nice.
- Said that Peet's construction manager and the landlord's architect are present and available for questions.

Commissioner Cappello asked Ms. Carol Mazzetti if the coffee beans would be roasted on the premises.

Ms. Carol Mazzetti replied that Peet's has a brand new roasting plant. Every night beans are roasted for all Peet's locations and sent out for use the next day.

Commissioner Cappello asked about the timing for deliveries.

Ms. Carol Mazzetti reported that they could occur any time allowed by the City. Deliveries are by small truck. Additionally pastries are delivered very early in the morning.

Commissioner Kumar asked Ms. Carol Mazzetti how Peet's arrived at the decision to select this particular location in Saratoga. Did they also consider other parts of Saratoga?

Ms. Carol Mazzetti:

- Replied yes, they did consider a number of locations in Saratoga.
- Advised that Peet's goal is to serve the commuters, mostly from Saratoga, who are going to work toward Highway 85.
- Added that they wanted to be located on the commute side of the street.
- Stated that Peet's tends to like to locate near a grocery store but that was not possible to achieve in Saratoga.
- Stressed that their key objectives when selecting a location are visibility, access and parking.

Commissioner Kumar asked if they looked in the downtown area.

Ms. Carol Mazzetti replied yes but added that a lack of convenient parking there was a concern.

Commissioner Kundtz asked when the majority of packaged beans were sold.

Ms. Carol Mazzetti said that the sale of beans is spread out over the day and on weekends.

Commissioner Nagpal asked about plans for landscaping in the outdoor seating area.

Ms. Margaret Trujillo, Construction Manager, Peet's Coffee and Teas:

- Said that they would be working with the ownership as well as the City.
- Stated that they will have planters with color.
- Added that the owners are open to discussion and ideas.

Chair Rodgers said that the sidewalk must remain open for pedestrians to go from business to business.

Ms. Margaret Trujillo agreed.

Chair Rodgers asked if consideration had been given to the slope in the sidewalk as far as placement of outdoor seating.

Ms. Margaret Trujillo said that they are open to pushing back the outdoor seating so that it is located closer to the overhang and storefront. She added that the use of planters might better define that space.

Chair Rodgers asked what might be done with the two existing posts.

Ms. Margaret Trujillo said that the ownership is willing to somehow enhance those posts. She added that they need time to further discuss and consider all ideas before coming up with the best plan for the center.

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

Commissioner Kundtz:

- Said that he is happy to see a Peet's in Saratoga.
- Added that he likes the idea of them selling coffee beans.
- Stated that the design criteria have been met and he is happy to support this application.

Commissioner Kumar:

- Agreed with Commissioner Kundtz that this is a good addition to Saratoga and said it is something that is solely missing on the eastern part of Saratoga-Sunnyvale Road.
- Informed that people are pretty excited.
- Added that this area is coming up well and is blossoming. He said he likes the look and feel of it. It's great.

Commissioner Nagpal:

- Agreed that Peet's is a Bay Area tradition and she is happy to have one in Saratoga.
- Said that she can make the Design Review and Use Permit findings.
- Expressed appreciation for the details provided by staff in the report.
- Said that she is fine with having the Community Development Director ensure that a landscape plan is developed that best defines the outdoor seating and offers color.
- Stressed the need to ensure that seating does not get placed on the sloped area.

Commissioner Zhao:

- Said that Peet's offers good quality products.
- Added that she too is glad to see Peet's coming to Saratoga.
- Predicted that Peet's will bring more business to this complex.
- Said that this is a good location.
- Advised that she can make the necessary findings to support.
- Wished Peet's good luck.

Commissioner Cappello:

- Stated "ditto" for me.
- Said that this is a good fit for Saratoga and for this center.
- Added that he likes the signage proposed.
- Agreed that the findings can be made to support this project.

Chair Rodgers:

- Said that while she does not drink coffee, she is happy to see Peet's here, as there are lots of coffee drinkers in Saratoga.
- Added that it is nice to have them in this location rather than the Village as there are already businesses selling coffee in the Village.
- Stated that this is a gateway and it is nice to have a more alive feeling at the entrance of that shopping center.
- Said that she would like to see more definition on the exterior planters and to be sure that the outdoor tables and chairs are located so as not to be on a slope.
- Suggested the need to do something to make the existing pillars more attractive and/or decorative at the top.
- Said that she has no objection to the inclusion of benches at the window but understands that this issue is for the discussion between the landlord and Peet's.

Director John Livingstone said he wanted to clarify the condition that leaves the approval of the final patio landscaping to the discretion of the Community Development Director. He suggested that this issue be left somewhat flexible to allow the City the opportunity to work with Peet's over the next 12 months to discover what works well.

Commissioner Nagpal asked if there are no permanent conditions for the Use Permit.

City Attorney Jonathan Wittwer said just for the commercial Design Review Approval.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Cappello, the Planning Commission approved a Conditional Use Permit (Application #07-275) to establish a restaurant (Peet's Coffee and Tea) in an existing 2,400-square foot vacant tenant space on property located at 12148 Saratoga-Sunnyvale Road, by the following roll call vote:

AYES: Cappello, Kumar, Kundtz, Nagpal, Rodgers and Zhao

NOES: None

ABSENT: Hlava

ABSTAIN: None

PUBLIC HEARING - ITEM NO. 2

Ordinance Correction to Section 15-29.010(b) of the Saratoga City Code relating to height restrictions for fences, wall and hedges.

Senior Planner Chris Riordan presented the staff report as follows:

- Explained that this action this evening is to forward a recommendation that Council adopt an Ordinance correction to Section 15-29.010(b) regarding height restrictions for fences, walls and hedges.
- Reminded that a prior Zoning Code Update in 2006 changed the definition of “yard” to read “setback” to offer much needed consistency in the Code.
- Reported that an unforeseen consequence of that change went unnoticed until just recently when it became clear that the Fence Ordinance was not enforceable in regards to height in front yard setback areas when it comes to limiting heights to three feet.
- Recommended that the Commission forward a recommendation to Council to adopt a minor correction as drafted to Ordinance Section 15-29.010(b).

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Kundtz, the Planning Commission forwarded a recommendation that Council adopt a minor correction to Ordinance Section 15-29-010(b) as it relates to height restrictions for fences, walls and hedges, by the following roll call vote:

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

Chair Rodgers realized that the motion and vote were taken without first having opened a public hearing.

City Attorney Jonathan Wittwer suggested that the hearing be opened and a second motion and vote occur after the hearing has been properly closed.

Chair Rodgers opened the public hearing for Agenda Item No. 2.

Chair Rodgers closed the public hearing for Agenda Item No. 2.

Motion: Upon motion of Commissioner Nagpal, seconded by Commissioner Kundtz, the Planning Commission forwarded a recommendation that Council adopt a minor correction to Ordinance Section 15-29-010(b) as it relates to height restrictions for fences, walls and hedges, by the following roll call vote:

AYES: Cappello, Kumar, Kundtz, Nagpal, Rodgers and Zhao
NOES: None

ABSENT: Hlava
ABSTAIN: None

PUBLIC HEARING - ITEM NO. 3

APPLICATION #07-239 (397-17-021) McAfee (property owner), 14494 Nutwood Lane:

The applicant requests Design Review Approval to add a 2,177 square foot, single-story addition to an existing 3,833 square foot, single-story, single-family residence for a total square footage of 6,010 square feet. The maximum height of the residence will not exceed 23 feet. The net lot size is approximately 40,128 square feet. Zone District: R-1-40,000.

Director John Livingstone presented the staff report as follows:

- Explained that the applicant is seeking Design Review Approval to allow the demolition of the majority of an existing home followed by a major one-story addition equaling approximately 6,000 square feet with a 2,800 square foot basement.
- Described the lot as roughly 41,000 square feet that is located in a court. The court has diverse architectural styles in both one and two-story formats.
- Said that this home would be reconstructed with all quality materials that include cedar siding, slate roof and a wood garage door. The home will blend in nicely into this neighborhood.
- Said that no protected trees would be removed and there are lots of trees on this site.
- Advised that the project meets required findings and that no negative comments have been received from neighbors.
- Recommended approval.

Chair Rodgers asked about the driveway material.

Director John Livingstone deferred to the applicant and/or architect.

Chair Rodgers opened the public hearing for Agenda Item No. 3.

Ms. Margaret McAfee, Property Owner and Applicant:

- Advised that she moved to Saratoga in 2000 and found it to be a community that embraces the values of her family and offers a quality of lifestyle.
- Added that she has two daughters.
- Said that her building and landscape architects are here and all of them are available for any questions.

Chair Rodgers thanked Ms. Margaret McAfee for the efforts to preserve trees.

Ms. Sarah Small, Project Landscape Architect:

- Explained that the driveway would be constructed of fine crushed rock (granite) with cobbled borders.
- Added that this is a pervious a material as is possible to use for a driveway.

Chair Rodgers explained that the City is trying to become as “Green” as possible. She asked what is being done to make this a more energy efficient project.

Mr. Paul Belotti, Project Architect:

- Said that on the south side of the property is a larger covered porch, which helps deflect sunlight from the house.
- Said that they have also relocated large trees to eliminate afternoon sun impacts.
- Added that the walls are deep and high rated windows would be installed.
- Admitted that it was not possible to incorporate solar panels on the roof, as that roof is not large enough to accommodate the number of panels it would take to serve a house of this size.

Director John Livingstone pointed out that the architect has provided a list that is Attachment #5 in the report.

Chair Rodgers closed the public hearing for Agenda Item No. 3.

Commissioner Nagpal:

- Said that this is a beautiful setting.
- Added that the design is sensitive to this setting and that trees have been preserved.
- Stated that the Design Review findings can be made.
- Expressed appreciation for the efforts taken with this project.

Commissioner Zhao:

- Agreed that this is a very nice design that fits well into this neighborhood.
- Stated that the findings can be made to support this project.

Commissioner Kumar:

- Stated that he agrees this is a beautiful lot.
- Said that the way the home wraps around existing vegetation was quite well done.

Chair Rodgers:

- Said that she can make all Design Review findings.
- Expressed appreciation to the applicant for all of the energy saving features as well as for saving trees.
- Added that this is a lovely design and she looked forward to seeing the house completed.
- Thanked Ms. Margaret McAfee for her kind words about Saratoga and said that it is nice to have her in the community.

Motion: Upon motion of Commissioner Cappello, seconded by Commissioner Zhao, the Planning Commission granted Design Review Approval (Application #07-239) for a 2,177 square foot single-story addition to an existing single-family residence on property located at 14494 Nutwood Lane, by the following roll call vote:

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

DIRECTOR'S ITEMS

There were no Director's Items.

COMMISSION ITEMS

Chair Rodgers:

- Advised that Council denied an appeal of the Planning Commission's decision on the Wordell Road project by a 4-1 vote. The Planning Commission's action was upheld.
- Said that in the future Council would be asking the Commission to look at what to do with abandoned properties. However, Council will need to consider where this issue should be placed as a priority on the work plan.

Director John Livingstone said that the issue would go back to Council one more time on June 6, 2007.

Chair Rodgers:

- Reported that the guidelines for building near streams were adopted by Council.
- Informed that the Planning Commission decision on the Neal's Hollow development has been appealed.
- Said that on May 18th a construction recycling program would be held.
- Said that legal training with the City Attorney would occur on June 12th.

Director John Livingstone said that the joint Study Session with Council would be held on June 6th and that any potential topics of discussion should be forwarded to the Chair for use in developing the agenda.

Chair Rodgers:

- Said that the General Plan would go to Council on June 6th.
- Reminded that the Use Permit for St. Michael's Church would come to this Commission on June 13th.

COMMUNICATIONS

There were no Communications Items.

ADJOURNMENT TO NEXT MEETING

Upon motion of Commissioner Cappello, seconded by Commissioner Zhao, Chair Rodgers adjourned the meeting at approximately 8:00 p.m. to a Study Session on **May 22, 2007**, and

subsequently to the next Regular Planning Commission meeting of **May 23, 2007**, at 7:00 p.m.

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