

**MINUTES
SARATOGA PLANNING COMMISSION**

DATE: Wednesday, March 11, 2009
PLACE: Council Chambers/Civic Theater, 13777 Fruitvale Avenue, Saratoga, CA
TYPE: Regular Meeting

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

ROLL CALL

Present: Commissioners Bernald, Cappello, Hlava, Kumar, Kundtz, Rodgers and Zhao
Absent: None
Staff: Director John Livingstone, Senior Planner Chris Riordan, Assistant Planner Cynthia McCormick and City Attorney Jonathan Wittwer

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – Regular Meeting of February 25, 2009.

Motion: Upon motion of Commissioner Hlava, seconded by Commissioner Bernald, the Planning Commission minutes of the regular meeting of February 25, 2009, were adopted as submitted. (6-0-1; Commissioner Rodgers was absent for this vote)

ORAL COMMUNICATION

There were no Oral Communication Items.

REPORT OF POSTING AGENDA

Director John Livingstone announced that, pursuant to Government Code 54954.2, the agenda for this meeting was properly posted on March 5, 2009.

REPORT OF APPEAL RIGHTS

Chair Cappello 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 #CUP09-0002 (397-06-075) Hills, 18588 Woodbank Road: The applicant requests Conditional Use Permit approval to locate a 316 square foot accessory structure within a required rear yard setback. The applicant is also requesting Variation from Standards to exceed the maximum 17,192 (35%) square foot lot coverage by 1,176 (2.4%) square feet and for the building to exceed the eight-foot maximum allowable height by one foot. The gross lot size is approximately 49,122 square feet and the site is zoned R-1-40,000. (Chris Riordan)

Mr. Chris Riordan, Senior Planner, presented the staff report as follows:

- Advised that this project was reviewed by the Planning Commission in February and continued to tonight's meeting.
- Reminded that the applicant is seeking Conditional Use Permit approval to allow a cabana to be located within a required rear yard setback and Variation from Standards to exceed the maximum building height and 35 percent maximum lot coverage standard of the R-1-40,000 zone.
- Said that in February, the Planning Commission recommended that the applicant increase the rear setback to 9 feet, a distance by which a Variation from Standards for height would no longer be necessary.
- Stated that the Planning Commission also recommended that the impervious site coverage also be reduced to no more than 35 percent.
- Reported that the project applicant has redesigned the cabana with a 9-foot setback so a Variation from Standards is no longer required.
- Added that the applicant is still asking for a Variation from Standards as far as site coverage but staff does not support that request because there are areas of the site where existing impervious area could be removed.
- Recommended that the Planning Commission find this project to be Categorically Exempt from CEQA and approve a Use Permit with conditions. Staff also recommends that the Commission approve the Design Review to allow the cabana within a required rear yard setback with the condition of approval that the excess impervious area is to be removed so the overall site coverage would not exceed 35 percent.
- Provided a couple of corrections to the draft resolution. The CEQA section on the first page was modified.
- Said that in the staff report the discussion of site coverage has an incorrect amount of gravel being removed. The applicant must remove 1,711 square feet of gravel and not the 846 square feet indicated in the narrative of the report. The table that appears on page 3 is accurate.

Director John Livingstone advised for the record that Commissioner Rodgers has arrived.

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

Mr. Ron Hills, Applicant and Property Owner:

- Expressed his appreciation for the time and effort spent by the Commission and for the option to return tonight.
- Explained that he was able to redesign the cabana and will move the whole wall forward so it is 9 feet back from the rear property line.
- Advised that he is willing to accept the staff recommendation on site coverage although he would like to keep the turf if at all possible.
- Distributed some site photographs.

Commissioner Kumar asked Mr. Ron Hills if he has any written documentation that describes the permeability of his turf product.

Mr. Ron Hills said he has nothing in writing to share this evening. He advised that this turf must percolate or standing water will ruin it.

Commissioner Kumar said that he went on the manufacturer's website to do some research and found nothing explicitly pointed out as far as the percolation and/or the perviousness of this product.

Mr. Ron Hills said that this was the best turf product available. It does have drain holes every three inches in it.

Commissioner Kumar asked what this turf product sits on.

Mr. Ron Hills said that it is placed on a rock base. It must percolate.

Commissioner Kumar said that he was unable to find that information on their website.

Commissioner Rodgers said that she also spent some time on their website. She asked if the product is glued down.

Mr. Ron Hills said that it is not glued down but rather is nailed down with spiked nails. The turf comes in 15-foot wide rolls. Where they placed the turf on the cement by the pool, the edges were glued down there.

Commissioner Rodgers asked Mr. Ron Hills if he is willing to accept staff's recommendation to meet the 35 percent lot coverage standard.

Mr. Ron Hills said yes, if that is what the Commission prefers.

Commissioner Rodgers asked Mr. Ron Hills if he considers this turf to be pervious.

Mr. Ron Hills replied yes.

Commissioner Rodgers said that staff does not.

Planner Chris Riordan clarified that in the Code, artificial turf is considered impervious, as is gravel, which does actually percolate. They are considered to be alternatives to a natural landscape.

Commissioner Rodgers asked Mr. Ron Hills if he is willing to accept that this turf is impervious.

Mr. Ron Hills replied yes, he is willing to accept that this was impervious for the purposes of determining compliance with the City Code. He added that his priority is to get the cabana fixed.

Planner Chris Riordan reminded that the applicant has conceded this point and is willing to remove it as necessary to reach the coverage standard.

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

Commissioner Hlava:

- Said that she is willing to make the findings on the setback and height but needs to see the lot coverage standard of 35 percent met.
- Added that there is an area planted with real lawn and questioned why the area currently covered with this artificial turf could not be planted with real grass.

Commissioner Rodgers said that she agreed with the need to meet the 35 percent lot coverage standard.

Commissioner Bernald said that upon reviewing the Residential Design Handbook today, which requires the use of landscape that blends with structures, that avoids the use of large numbers of accessory structures and avoids large continuous paved areas. Therefore, she said that she could not make the findings to support this request.

Motion: Upon motion of Commissioner Hlava, seconded by Commissioner Zhao, the Planning Commission granted Conditional Use Permit approval (Application #CUP09-0002) to locate a 316 square foot accessory structure within a required rear yard setback per the staff recommendation on property located at 18588 Woodbank Road, as conditioned, by the following roll call vote:

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

PUBLIC HEARING - ITEM NO. 2

APPLICATION #PDR08-0036 (393-39-020) Mohazzab, 13581 Saratoga Vista Avenue: The applicant requests Design Review approval to demolish an existing home and construct a new two-story single-family dwelling with a total floor area of approximately 3,701 square feet. The height of the proposed home is less than 26 feet. The applicant will remove 11 existing trees and replace them with new trees, equivalent in value. The lot is 12,764 square feet and the site is zoned R-1-10,000. (Cynthia McCormick)

Ms. Cynthia McCormick, Assistant Planner, presented the staff report as follows:

- Advised that the applicant has asked for a continuance.
- Asked if she should still provide her staff report.

Director John Livingstone:

- Explained that the applicant filed for a continuance as 11 of his neighbors have filed a protest against this project.
- Suggested that the public hearing be opened but cautioned that any speakers who speak tonight could not speak again at the next meeting.
- Suggested that any speakers wait until the hearing actually takes place.
- Said that the continuance would be to a date uncertain. A complete renoticing of neighbors would occur when this project is ready.

Commissioner Hlava asked if a study session might not be in order here.

Director John Livingstone agreed that a study session was an option. He suggested letting staff work with the applicant first to see if one is required.

City Attorney Jonathan Wittwer clarified that under the Brown Act speakers who speak this evening could not be prevented from speaking at the next meeting on any new aspects of the project.

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

Commissioner Rodgers asked staff to be sure to have an amended arborist report and/or to have the arborist present at either the study session or next public hearing.

Chair Cappello suggested that staff see if they can resolve the neighbors' concerns about this project. If so, a study session might not be necessary.

Motion: Upon motion of Commissioner Hlava, seconded by Commissioner Rodgers, the Planning Commission CONTINUED TO A DATE UNCERTAIN consideration of a Design Review Approval (Application #PDR08-0036) to demolish an existing home and construct a new two-story residence on property located at 13581 Saratoga Vista Avenue, by the following roll call vote:

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

PUBLIC HEARING - ITEM NO. 3

APPLICATION ZOA09-0001 (City Wide) Village Parking Extension: The proposed zoning ordinance amendment would 1) extend the waiver of off-street parking requirements in the CH1 and CH2 Zoning Districts; 2) make various clarifying amendments to the Off-Street Parking and Loading Facilities Zoning Regulations; and 3) amend Article 15-90 to conform provisions concerning appeals of Planning Commission decisions with recent amendments to Section 2-05.030 concerning appeals to the City Council. (Cynthia McCormick)

Ms. Cynthia McCormick, Assistant Planner, presented the staff report as follows:

- Reported that on January 7, 2009, Council directed staff to amend the City Code to extend the Village off-street parking requirement waiver for another three years or until the surplus parking capacity has been depleted.
- Said that the proposed amendments and appeals process would extend this Ordinance until February 2012. Amendments include minor clarifying grammatical corrections, provide an alternate FAR example and conforms the appeals process to Council's appeals process.
- Explained that the proposed changes are indicated in the staff report with text to be added underlined and text to be deleted shown in strikethrough.
- Said that an Initial Study and Mitigated Negative Declaration were prepared for these amendments and were available to the public for comment beginning on February 4, 2009. The comment period ending on March 5th. No comments have been received as of today.
- Recommended that the Planning Commission approve the Negative Declaration and recommend the update to the Parking and Loading Facilities Zoning Regulations and appeal procedures to the City Council.

Commissioner Bernald questioned the language on Item 13 (top of page 4). She read, "*If, in the application of this subsection, a fractional number is obtained, one compact parking space may be provided for a fraction of more than one-half and one standard space shall be provided for a fraction of one-half or less.*" She said that it seems like this should read in the reverse.

Planner Cynthia McCormick said that she had thought the same thing when she first read that section. It deals with compact spaces and it is correct. She added that the City Attorney did review this.

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

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

Chair Cappello asked if there is a table that depicts the spaces that have already been utilized. How much of the surplus is used?

Planner Cynthia McCormick said that she did not remember the exact number but believes it is right around 20,000 square feet of space. She then pointed to the previous staff report attached to the current report, which has this data. Of the 10 projects eligible, five have been built, one is in plan check and four are still outstanding.

Commissioner Rodgers said that these provisions are needed even more now than when this was originally adopted.

Motion: Upon motion of Commissioner Rodgers, seconded by Commissioner Bernald, the Planning Commission recommended approval of the Mitigated Negative Declaration and amendments to the Zoning Ordinance (Application ZOA09-001) extending the waiver of off-street parking requirements in the CH1 and CH2 Zoning Districts, amending the Off-Street Parking and Loading Facilities Zoning Regulations and amending Article 15-90 regarding appeals of Planning Commission actions to the City Council, by the following roll call vote:

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

DIRECTOR'S ITEMS

Director John Livingstone reminded the Commission of the final look at the Housing Element at a study session to be held on March 31st at 6 p.m. in the Arts & Crafts Room.

Commissioner Rodgers suggested the use of speaker cards to allow interested parties to address specific issues of the Housing Element. It was difficult to find the right opportunity to speak at the last session.

Director John Livingstone said he could make this request for speaker cards to the Mayor.

Commissioner Hlava said that they should be able to just raise their hand. She agreed that the opportunity to speak is important. The Mayor needs to be more aware that the Commissioners felt shut out of that last meeting. That meeting was both hurried and rushed. It was too big a topic for the time available. She said that she would personally contact the Mayor.

Commissioner Bernald agreed that conducting this study session in a more orderly fashion would be helpful.

COMMISSION ITEMS

There were no Commission Items.

COMMUNICATIONS

There were no Communications Items.

ADJOURNMENT TO NEXT MEETING

Upon motion of Commissioner Bernald, seconded by Commissioner Hlava, Chair Cappello adjourned the meeting at approximately 7:38 p.m.

MINUTES PREPARED AND SUBMITTED BY:

Corinne A. Shinn, Minutes Clerk