



MEETING DATE: 5/16/05
ITEM NO. 7

COUNCIL AGENDA REPORT

DATE: May 13, 2005

TO: MAYOR AND TOWN COUNCIL

FROM: ORRY P. KORB, TOWN ATTORNEY *OK*

SUBJECT: ADOPT RESOLUTION GRANTING AN APPEAL OF A PLANNING COMMISSION DENYING A REQUEST TO CONSTRUCT A SECOND STORY ADDITION TO A SINGLE FAMILY RESIDENCE THAT EXCEEDS THE FLOOR AREA RATIO ON PROPERTY ZONED HR-2-1/2. APN: 527-55-036. ARCHITECTURE AND SITE APPLICATION: S-05-17. PROPERTY LOCATION: 310 SANTA ROSA DRIVE. PROPERTY OWNER / APPELLANT: JOHN VERSGROVE

RECOMMENDATION:

Adopt resolution confirming Council action on May 2, 2005.

DISCUSSION:

On May 2, 2005, Council granted the appeal of a decision of the Planning Commission concerning the application to construct a second story addition to a single family residence on property located at 310 Santa Rosa Drive. Condition 11 was added by Council to specify the manner in which the second floor addition is to be designed. Condition 11 was originally stated by Council as follows:

11. SECOND STORY ADDITION: Any second story addition in the existing attic area shall minimally increase the existing roof mass to meet the minimum Uniform Building Code requirements for light, ventilation, and egress.

Council recently received an e-mail message from Tony Jeans, the applicant's representative, requesting clarification of Condition 11 (referred to in the message as Condition 10). The email is included as Attachment 1. Staff has drafted its own clarification of Condition 11, which reads as follows:

PREPARED BY: ORRY P. KORB, TOWN ATTORNEY

OPK LMB/wp [N:\ATY\Santa-Rosa TCR]

Reviewed by: *[Signature]* Town Manager *PSJ* Assistant Town Manager _____ Clerk Administrator
Finance *BUE* Community Development

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MAYOR AND TOWN COUNCIL

SUBJECT: ADOPT RESOLUTION GRANTING AN APPEAL OF A PLANNING COMMISSION DENYING A REQUEST TO CONSTRUCT A SECOND STORY ADDITION TO A SINGLE FAMILY RESIDENCE THAT EXCEEDS THE FLOOR AREA RATIO ON PROPERTY ZONED HR-2-1/2. APN: 527-55-036. ARCHITECTURE AND SITE APPLICATION: S-05-17. PROPERTY LOCATION: 310 SANTA ROSA DRIVE. PROPERTY OWNER / APPELLANT: JOHN VERSGROVE

May 13, 2005

11. SECOND STORY ADDITION: Any second story addition in the existing attic area shall be restricted to a shed dormer or traditional dormers at the interior of the courtyard that minimally increase the existing mass. A shed dormer will be permitted if the applicant demonstrates that the use of traditional dormers will create a significant impact on the performance of the proposed photovoltaic system as specified in Section 714.d.1.B of the California Civil Code. Doors, windows, and skylights in this area shall be permitted to the minimum extent necessary to meet Uniform Building Code requirements for light, ventilation, and egress. A modest size balcony may be permitted at the interior of the courtyard.

Staff recommends this version of Condition 11, which is included in the conditions of approval (Exhibit "A" to the resolution). Council can adopt the resolution with staff's recommended version of Condition 11 by approving the Consent Calendar without comment. Should Council wish to reject staff's recommended version of Condition 11, the item should be removed from the Consent Calendar for separate action.

Attachments: 1. E-mail from Tony Jeans, dated May 11, 2005
2. Resolution

Distribution: John Versgrove, 310 Santa Rosa Drive, Los Gatos, CA 95032
Brian Mah, TDS Architects, 2060 Clarmar Way, San Jose, CA 95128

----- Original Message -----

From: Tony Jeans

To: Sglickman@losgatosca.gov ; Mwasserman@losgatosca.gov ; Bspector@losgatosca.gov

Cc: jpoulson@losgatosca.gov ; vmsi@msn.com

Sent: Wednesday, May 11, 2005 8:14 PM

Subject: 310 Santa Rosa Drive

Mr Mayor & Councilmembers:

I am asking for clarification on the approval of John Versgrove's project from the Council Hearing last week.

The Draft Conditions of Approval need clarification in the following area:

Condition 10 as presently worded states: "Any 2nd story addition in the existing attic area shall minimally increase the existing roof mass to meet UBC requirements for light, ventilation and egress."

The way we have to incorporate photovoltaics is on the proposed, south-facing shed roof at the interior courtyard, thus the way we "minimally increase" the roof becomes critical.

My clarification would read as follows:

Any 2nd story addition in the existing attic area will be restricted to a south facing shed roof at the interior of the courtyard only. Doors, windows and skylights, in this area, will be permitted to the minimum extent necessary to meet UBC requirements for light, ventilation and egress.

I would appreciate your comments; sent to Joel Poulson on this issue, so that I can proceed with design detailing.

Thank you for your help in this matter.

Tony Jeans

Cc: John Versgrove

RESOLUTION

ADOPT RESOLUTION GRANTING AN APPEAL OF A PLANNING COMMISSION DENYING A REQUEST TO CONSTRUCT A SECOND STORY ADDITION TO A SINGLE FAMILY RESIDENCE THAT EXCEEDS THE FLOOR AREA RATIO ON PROPERTY ZONED HR-2-1/2.

APN: 527-55-036

ARCHITECTURE AND SITE APPLICATION: S-05-17

PROPERTY LOCATION: 310 SANTA ROSA DRIVE

PROPERTY OWNER / APPELLANT: JOHN VERSGROVE

WHEREAS:

A. This matter came before Council for public hearing on May 2, 2005, on an appeal by John Versgrove (property owner/appellant) from a decision of the Planning Commission and was regularly noticed in conformance with State and Town law.

B. Council received testimony and documentary evidence from the appellant and all interested persons who wished to give evidence. Council considered all testimony and materials submitted, including the record of the Planning Commission proceedings and the packet of material contained in the Council Agenda Report dated April 28, 2005, and the Desk Item dated May 2, 2005, along with subsequent reports and materials prepared concerning this application.

C. The applicant is requesting approval of an architectural and site application to add 1,233 square feet to an existing 6,447 square foot home with an 836 square foot garage for a total floor area of 8,516 square feet (including garage). The proposed addition will convert the existing attic space to a second floor area, which includes expanding the existing roof line.

D. The Planning Commission first considered the application on February 9, 2005 and provided direction to the applicant concerning design and materials. On March 23, 2005, the Commission considered the revised plans and denied the project because the proposed second story addition was not kept within the existing building envelope and the windows exceeded the minimum

required by the Uniform Building Code to meet requirements for natural light, ventilation and egress.

E. The grounds for the appeal are the applicant believes that the Commission erred or abused its discretion and that the decision was not based on evidence in the record or the recommendations of Town staff.

F. Council finds as follows:

1. Pursuant to Town Code section 29.20.300, this application required the interpretation of a policy over which the Planning Commission did not have the discretion to modify or address, but which is vested in the Council for modification or decision; to wit, the Hillside Standards and Guidelines for allowing exceptions to the maximum allowed floor area ratio where the additional living space would be located within an existing structure and would not significantly add to the visible mass of the structure. Council finds that applicant has demonstrated that the design could accommodate additional living space without significantly impacting the apparent mass and scale of the structure and that all of the mandatory elements stated in the Hillside Development Standards and Guidelines for exceeding 6,000 have been met.

2. Pursuant to section 29.20.150, the considerations for approval of Architecture and Site applications have been made. The proposed construction, as modified, is well designed and consistent with the hillside architectural style of the neighborhood and does not set a precedent regarding future development in the neighborhood.

3. The project is categorically exempt pursuant to Section 15301 of the State Environmental Guidelines as adopted by the Town.

RESOLVED:

1. The appeal of the decision of the Planning Commission on Architecture and Site Application S-05-17 is therefore granted.

2. Revised Conditions of approval, attached hereto as Exhibit A, are applied to this Application.

3. The decision constitutes a final administrative decision pursuant to Code of Civil Procedure section 1094.6 as adopted by Section 1.10.085 of the Town Code of the Town of Los Gatos. Any application for judicial relief from this decision must be sought within the time limits and pursuant to the procedures established by Code of Civil Procedure Section 1094.6, or such shorter time as required by state or federal law.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California held on the day of , 2005 by the following vote.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

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CONDITIONS OF APPROVAL

310 Santa Rosa Drive

Architecture and Site Application S-05-17

Consider an appeal of the decision of the Planning Commission denying a request to construct a second story addition to a single family residence that will result in a home that exceeds the Floor Area Ratio on property zoned HR- 2 1/2. APN 527-55-036.

PROPERTY OWNER/APPELLANT: John Versgrove

TO THE SATISFACTION OF THE DIRECTOR OF COMMUNITY DEVELOPMENT: (Planning Section)

1. APPROVAL EXPIRATION: Zoning approval will expire two years from the approval date pursuant to Section 29.20.320 of the Town Code, unless the application is vested.
2. APPROVAL: This application shall be completed in accordance with all of the conditions of approval listed below and in substantial compliance with the approved plans received March 9, 2005. Any minor changes or modifications made to the approved plans shall be approved by the Director of Community Development other changes will be approved by the Planning Commission, depending on the scope of the change(s).
3. DEED RESTRICTION: Prior to the issuance of a building permit, a deed restriction shall be recorded by the applicant with the Santa Clara County Recorder's Office that requires all exterior paint colors to be maintained in conformance with the Town's Hillside Development Standards.
4. OUTDOOR LIGHTING: If any outdoor lighting is proposed, an outdoor lighting plan shall be approved by the Director of Community Development prior to the issuance of Building Permits. All outdoor lighting shall be down-lighting and shall be as minimal and unobtrusive as possible. Exterior lighting shall only be used for pedestrian safety and security. There shall be no up-lighting of landscaping or the home.
5. TITLE 24: Compliance to Title 24 Energy Efficiency Standards are shown using computer methods. The compliance margin must be at least 10.0.
6. PHOTOVOLTAIC: Photovoltaic (PV) panels must be installed.
7. WINDOWS. Windows shall be low reflectivity glass that also limits nighttime light emanation. Tinted glass is preferred. Second story windows shall be sized to the minimum required by the Uniform Building Code to meet natural light, ventilation, and egress.
8. EXTERIOR MATERIALS AND COLORS: The approved wall and column color is Kelly Moore Highland Grass (LRV 29), trim and railings Kelly Moore Defense (LRV 9), roof will be slate with a low reflectivity, and low reflectivity stone shall be incorporated into the proposed exterior materials to the satisfaction of the Director of Community Development.
9. FLOOR AREA: The floor area counted towards the Floor Area Ratio shall not exceed 7,500 square feet.
10. VISIBLE MASS REDUCTIONS: All visible mass reductions offered by the applicant and illustrated in Exhibit J of Attachment 7 in the Council Report dated April 26, 2005 shall be incorporated. Additionally, the first floor addition (26 sq. ft.) shall not be incorporated into the redesign.
11. SECOND STORY ADDITION: Any second story addition in the existing attic area shall be

restricted to a shed dormer or traditional dormers at the interior of the courtyard that minimally increase the existing mass. A shed dormer will be permitted if the applicant demonstrates that the use of traditional dormers will create a significant impact on the performance of the proposed photovoltaic system as specified in Section 714.d.1.B of the California Civil Code. Doors, windows, and skylights in this area shall be permitted to the minimum extent necessary to meet Uniform Building Code requirements for light, ventilation, and egress. A modest size balcony may be permitted at the interior of the courtyard..

(Building Section)

12. PERMITS REQUIRED: A building permit shall be required for demolition of existing and the construction of the new single family residence. Separate building permits are required for site retaining walls, water tanks, and swimming pools; separate electrical, mechanical, and plumbing permits shall be required as necessary.
13. CONDITIONS OF APPROVAL: The Conditions of Approval must be blue-lined in full on the cover sheet of the construction plans.
14. SIZE OF PLANS: Four sets of construction plans, maximum size 24" x 36."
15. FOUNDATION INSPECTIONS: A pad certificate prepared by a licensed civil engineer or land surveyor shall be submitted to the project building inspector at foundation inspection. This certificate shall certify compliance with the recommendations as specified in the soils report; and, the building pad elevation, on-site retaining wall locations and elevations are prepared according to approved plans. Horizontal and vertical controls shall be set and certified by a licensed surveyor or registered civil engineer for the following items:
 1. Building pad elevation
 2. Finish floor elevation
 3. Foundation corner locations
16. TITLE 24 ENERGY COMPLIANCE: California Title 24 Energy Compliance forms CF-1R and MF-1R must be blue-lined on the plans.
17. TOWN FIREPLACE STANDARDS: New wood burning fireplaces shall be an EPA Phase II approved appliance as per Town Ordinance 1905. Tree limbs shall be cut within 10-feet of chimneys.
18. HAZARDOUS FIRE ZONE: This project requires a Class A roofing assembly.
19. SPECIAL INSPECTIONS: When a special inspection is required by UBC Section 1701, the architect or engineer of record shall prepare an inspection program that shall be submitted to the Building Official for approval prior to issuance of the building permit. The Town Special Inspection form must be completely filled-out, signed by all requested parties and be blue-lined on the construction plans. Special Inspection forms are available from the Building Division Service Counter or online at www.losgatosca.gov.
20. NONPOINT SOURCE POLLUTION STANDARDS: The Town standard Santa Clara Valley Nonpoint Source Pollution Control Program shall be part of the plan submittal as the second page. The specification sheet is available at the Building Division Service Counter for a fee of \$2 or at San Jose Blue Print.
21. PLANS: The construction plans shall be prepared under the direct supervision of a licensed architect or engineer. (Business and Professionals Code Section 5538)
22. APPROVALS REQUIRED: The project requires the following agencies approval before

issuing a building permit:

- a. Community Development: Joel Paulson at 354-6879
- b. Engineering Department: Fletcher Parsons at 395-3460
- c. Parks & Public Works Department: (408) 399-5777
- d. Santa Clara County Fire Department: (408) 378-4010
- e. West Valley Sanitation District: (408) 378-2407
- f. Local School District: (Contact the Town Building Service Counter for the appropriate school district and to obtain the school form.)

TO THE SATISFACTION OF THE DIRECTOR OF PARKS AND PUBLIC WORKS:
(Engineering Division)

23. GENERAL. All public improvements shall be made according to the latest adopted Town Standard Drawings and the Town Standard Specifications. All work shall conform to the applicable Town ordinances. The adjacent public right-of-way shall be kept clear of all job related dirt and debris at the end of the day. Dirt and debris shall not be washed into storm drainage facilities. The storing of goods and materials on the sidewalk and/or the street will not be allowed unless a special permit is issued. The developer's representative in charge shall be at the job site during all working hours. Failure to maintain the public right-of-way according to this condition may result in the Town performing the required maintenance at the developer's expense.
24. ENCROACHMENT PERMIT. All work in the public right-of-way will require a Construction Encroachment Permit. All work over \$5,000 will require construction security.
25. PUBLIC WORKS INSPECTIONS. The developer or his representative shall notify the Engineering Inspector at least twenty-four (24) hours before starting an work pertaining to on-site drainage facilities, grading or paving, and all work in the Town's right-of-way.
26. Failure to do so will result in rejection of work that went on without inspection.
27. EROSION CONTROL. Interim and final erosion control plans shall be prepared and provided within the Building Permit submittal. A maximum of two weeks is allowed between clearing of an area and stabilizing/building on an area if grading is allowed during the rainy season. Interim erosion control measures, to be carried out during construction and before installation of the final landscaping shall be included. Interim erosion control method shall include, but are not limited to: silt fences, fiber rolls (with locations and details), erosion control blankets, Town standard seeding specification, filter berms, check dams, retention basins, etc. Provide erosion control measures as needed to protect downstream water quality during winter months. The grading, drainage, erosion control plans and SWPPP shall be in compliance with applicable measures contained in the amended provisions C.3 and C.14 of Order 01-024 of the amended Santa Clara County NPDES Permit.
28. CONSTRUCTION STREET PARKING. No vehicle having a manufacturer's rated gross vehicle weight exceeding ten thousand (10,000) pounds shall be allowed on the portion of a street which abuts property in a residential zone without prior approval from the Town Engineer (§ 15.40.070).
29. SILT AND MUD IN PUBLIC RIGHT-OF-WAY. It is the responsibility of contractor and home owner to make sure that all dirt tracked into the public right-of-way is cleaned up on a daily basis. Mud, silt, concrete and other construction debris SHALL NOT be washed into the Town's storm drains.

30. RESTORATION OF PUBLIC IMPROVEMENTS. The developer shall repair or replace all existing improvements not designated for removal that are damaged or removed because of developer's operations. Improvements such as, but not limited to: curbs, gutters, sidewalks, driveways, signs, pavements, raised pavement markers, thermoplastic pavement markings, etc. shall be repaired and replaced to a condition equal to or better than the original condition. Existing improvement to be repaired or replaced shall be at the direction of the Engineering Construction Inspector, and shall comply with all Title 24 Disabled Access provisions. Developer shall request a walk-through with the Engineering Construction Inspector before the start of construction to verify existing conditions.
31. CONSTRUCTION NOISE. Between the hours of 8:00 a.m. to 8:00 p.m., weekdays and 9:00 a.m. to 7:00 p.m. weekends and holidays, construction, alteration or repair activities shall be allowed. No individual piece of equipment shall produce a noise level exceeding eighty-five (85) dBA at twenty-five (25) feet. If the device is located within a structure on the property, the measurement shall be made at distances as close to twenty-five (25) feet from the device as possible. The noise level at any point outside of the property plane shall not exceed eighty-five (85) dBA.

TO THE SATISFACTION OF THE SANTA CLARA COUNTY FIRE DEPARTMENT:

32. REQUIRED FIRE FLOW: The required fire flow for this project is 2,250 gpm at 20 psi residual pressure. An automatic sprinkler system will be installed, the fire flow has been reduced by 75% establishing a required adjusted fire flow of 1,000 gpm at 20 psi residual pressure. The adjusted fire flow is available from area water mains and fire hydrant(s) which are spaced at the required spacing.
33. AUTOMATIC FIRE SPRINKLER SYSTEM REQUIRED: New homes located within the hazardous fire area, shall be protected throughout by an approved, automatic fire sprinkler system, hydraulically designed per National Fire Protection Association (NFPA) Standard #13d.
34. REQUIRED ACCESS TO WATER SUPPLY (HYDRANTS): Portions of the structure(s) are greater than 150 feet from the centerline of the roadway containing public fire hydrants. Provide an approved fire sprinkler system throughout all portions of the building.