

**MINUTES
SARATOGA PLANNING COMMISSION**

DATE: Wednesday, July 26, 2006
PLACE: Council Chambers/Civic Theater, 13777 Fruitvale Avenue, Saratoga, CA
TYPE: Regular Meeting

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

ROLL CALL

Present: Commissioners Cappello, Hlava, Hunter, Kundtz and Zhao
Absent: Commissioners Nagpal and Rodgers
Staff: Director John Livingstone, Planner Sweta Bhatt and Assistant City Attorney Jonathan Wittwer

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES – Regular Meeting of June 28, 2006.

Motion: Upon motion of Commissioner Hunter, seconded by Commissioner Hlava, the Planning Commission minutes of the regular meeting of June 28, 2006, were adopted with a correction to page 32. (4-0-2-1; Commissioners Nagpal and Rodgers were absent and Commission Kundtz abstained)

APPROVAL OF MINUTES – Regular Meeting of July 12, 2006.

Consideration of the minutes of the Regular Meeting of July 12, 2006, was continued to the next meeting at which a quorum of the Commission is in attendance eligible to vote on these minutes. Commissioners Cappello, Hunter and Zhao needed to abstain from participation, as they were absent from the July 12th meeting leaving just two Commissioners available to vote and no quorum.

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 July 20, 2006.

REPORT OF APPEAL RIGHTS

Acting 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 #06-419 – (517-09-043, 517-09-018, 517-09-044) Planet Juice (tenant)/Hiekali (Property Owner) -- 14410 Big Basin Way: The applicant requests a Conditional Use Permit to establish a juice shop in an existing approximately 960 square foot vacant tenant space in the newly remodeled Corinthian Corners commercial complex. The juice shop will face Saratoga-Los Gatos Road and will be located between the existing Starbucks Coffee Shop and Breakaway Bicycle Shop. The site is zoned CH-1.

Planner Sweta Bhatt presented the staff report as follows:

- Advised that the applicant is seeking approval of a Conditional Use Permit to allow the establishment of a restaurant in a commercial building known as Corinthian Corners. The building is located at the corner of Big Basin Way and Saratoga-Los Gatos Road. The tenant space is located between Starbucks and Breakaway Bicycle Shop.
- Described the proposed restaurant as Planet Juice, which sells fruit and vegetable juices. A Use Permit is required to establish a restaurant. The restaurant will consist of a total of 14 seats, including both interior and exterior seating.
- Reported that the correspondence received has been positive. One comment was received expressing concerns about traffic and circulation impacts.
- Informed that the traffic report previously prepared for this site indicates that no substantial impact is anticipated.
- Reminded that recent changes have resulted in there being no parking requirement for new uses in the Village.
- Said that while the Use Permit will offer this business flexible operational hours, limitations for delivery hours are specifically outlined in the Conditions of Approval.
- Said that two illuminated wall signs will be used. Both of them are identical and are three feet by two feet in size.
- Said that staff finds that this business will compliment the mix of uses in the area and recommends approval.

Commissioner Kundtz asked Planner Sweta Bhatt why staff has deduced just a modest traffic impact with the addition of this juice shop especially that now there is real experience with the Starbucks at that location. He asked if it would be cost-prohibitive to do a new traffic study.

Director John Livingstone said that it has been determined that this business would not cause significant impacts to the LOS (Levels of Service) of the intersection.

Acting Chair Cappello opened the Public Hearing for Agenda Item No. 1.

Mr. Tarek ElJarrari, Applicant:

- Thanked the Commission for the opportunity to address them this evening.
- Said he is married and the father of a three-year-old daughter. His wife is eight months pregnant with a second daughter.
- Added that he works for San Mateo County in the Department of Mental Health.
- Reported that as a graduate student he worked at Planet Juice, which was established in 1992. Planet Juice serves fresh smoothies, ice cream, fruit and veggie juices.
- Added that what distinguishes Planet Juice from Jamba Juice is that it is small franchise with just nine stores that offers more variety and choice.
- Advised that both he and his wife were instantly charmed by this site and location and that they are hoping that the charm of the Village will help their business succeed.
- Stated he was available to answer any questions.

Commissioner Hlava asked if Mr. Tarek ElJarrari intended to state in his letter that deliveries would occur at 11 p.m. rather than 11 a.m.

Mr. Tarek ElJarrari replied yes. Deliveries will occur after his business has closed. He added that he works with small and flexible vendors.

Commissioner Kundtz asked Mr. Tarek ElJarrari about his business's demographics and peak operational hours. He pointed out that the report offers peak hours as being between 9 and 11 a.m. and 2 and 4 p.m.

Mr. Tarek ElJarrari:

- Said that his experience is with Planet Juice stores that he has managed. The demographics vary but their target is ages 18 to 40. They also get families and children.
- Added that another Planet Juice at which he worked at was also situated next to a coffee shop.
- Stated that he is reluctant to limit his demographics and added that employees for other nearby businesses are likely patrons as are others coming into the area to do business.
- Said that there are various peak and seasonal business times.

Commissioner Kundtz pointed out that this location is situated about half way between Saratoga High School as is Jamba Juice. Therefore Planet Juice is also likely to have lots of students during the lunch hour.

Mr. Tarek ElJarrari said that at the Planet Juice locations at which he worked before there were no high schools nearby. He suggested that if traffic impacts occur with school traffic he could perhaps deliver to the school. If that traffic proves dangerous, he would be the first to want to do what he could to avert those impacts.

Commissioner Hunter pointed out that for nine months of the year Jamba Juice is busy at lunch with students. Early morning is when Starbucks is busiest. She asked staff if no traffic study has been conducted since Starbucks opened at Corinthian Corners.

Director John Livingstone replied correct, no new traffic study has been prepared.

Commissioner Hunter told Mr. Tarek ElJarrari that she is looking forward to his being active in the community.

Commissioner Zhao asked Mr. Tarek ElJarrari if this would be the first Planet Juice he will own although he has managed other locations.

Mr. Tarek ElJarrari replied yes.

Commissioner Zhao asked Mr. Tarek ElJarrari if he plans to run the business himself.

Mr. Tarek ElJarrari said that he plans to take a leave of absence from his full-time job to manage this new business for at least six months.

Commissioner Zhao asked Mr. Tarek ElJarrari how he plans to attract customers to his store.

Mr. Tarek ElJarrari replied that the product itself would draw people. Also there will be word of mouth to help generate interest as well as the attraction of the Village itself. He said that he hopes his business will provide another reason for people to come to the Village.

Acting Chair Cappello asked if the two proposed signs are identical.

Mr. Tarek ElJarrari replied yes. They are identical signs that are made of wood.

Acting Chair Cappello closed the Public Hearing for Agenda Item No. 1.

Commissioner Hunter:

- Said that although this is the same location for which she did not support a Subway Sandwich Shop, she does not feel the same objection to this use.
- Added that one rationale to not support the Subway Sandwich Shop was the fact that there were already 21 or more businesses selling sandwiches in the Village, there were traffic impacts and other concerns.
- Advised that she does not feel the same way with this application. This is smaller with less of a traffic impact. It will be a good asset to the Village.
- Said that she talked with the owner of the Breakaway Bike Store and they have no problem with the proposed colorful sign.
- Expressed her support for this Use Permit.

Commissioner Hlava:

- Said that this use is complimentary to what is there and is a reasonable use of this space.
- Added that once there are retail spaces to be filled, new traffic is part of the dynamic when those spaces are occupied. It is part of living near a downtown.

- Stated that she has no issue with traffic impacts.
- Said that this is a complimentary use that she has no problem supporting.

Commissioner Kundtz:

- Said that he too did not support Subway for two reasons, the effects on existing businesses and traffic impacts.
- Said that he also voted against Starbucks due to traffic concerns.
- Advised that he is disappointed that no new traffic study was done and to be consistent he would have to vote against this.
- Added that he wished it were proposed for Sixth Street instead of this site.
- Said that he is sensitive about traffic from the high school.

Commissioner Zhao:

- Said that this is a unique shop for the Village offering healthy smoothies and juice.
- Said she first was concerned but feels that most of the traffic is likely to be pedestrian.
- Stated that this is a nice addition to the Village.

Commissioner Hunter:

- Advised that the Pet Parade was held this weekend with about 100 people participating.
- Pointed out that a lot of traffic on Big Basin Way is going up into the mountains, as it is a gateway to Big Basin State Park and Henry Coe Park. People going through the Village is beyond just local people but rather it serves as a gateway for the whole area to use.
- Added that the only shop in the Village currently selling smoothies is Tapioca Express.

Acting Chair Cappello:

- Announced for the record that he spoke with the applicant, Mr. Tarek ElJarrari, before he even submitted to the City.
- Expressed support for this project, as it is a good fit in terms of space.
- Pointed out that talking about revitalization includes traffic.
- Said that there are no safety impact issues here,
- Stated that this business lends itself to purchase and then walking through the area, an opportunity to mingle around the downtown area. Being located next to a coffee shop, this juice shop will offer a good healthy alternative to coffee.
- Said he likes this project.
- Advised that his concerns about the sign were addressed through the use of painted wood.
- Stated that we have a great applicant here with a willingness to be a part of the community.

Commissioner Hlava asked if sign approval was part of this application.

Planner Sweta Bhatt said that the signs are part of Exhibit A.

Motion: Upon motion of Commissioner Hlava, seconded by Commissioner Hunter, the Planning Commission adopted a Resolution approving a Conditional Use Permit (Application #06-419) to allow the establishment of a juice shop (Planet Juice) within a 960 square foot tenant space in the Corinthian

Corners commercial complex located at 14410 Big Basin Way, by the following roll call vote:

AYES: Cappello, Hlava, Hunter and Zhao

NOES: Kundtz

ABSENT: Nagpal and Rodgers

ABSTAIN: None

PUBLIC HEARING - ITEM NO. 2

Zoning Text Amendment: The City of Saratoga Community Development Department is proposing text changes in the Chapter 15 Zoning Regulations Chapter of the City Code. The purpose of the text changes is to improve clarity and maintain consistency among the various sections in Chapter 15 and provide consistent use of terms as used in other Chapters of the City Code.

Director John Livingstone presented the staff report as follows:

- Advised that staff maintains a copy of the Zoning Code at the front counter, in which they have been making minor corrections as problems are discovered. This includes typographical and other errors as well as inconsistencies.
- Pointed out an example whereby the term formerly used was “yards” that is now known as “setbacks.” Part of the update included removing and replacing old terms with currently used ones.
- Added that some fixes to the Zoning Code also affect other sections of Code, which must also be corrected for consistency.
- Informed that there are no substantial changes but that the update will help make the Zoning Code easier to understand.
- Advised that the City Attorney has one more correction to add to the update.

City Attorney Jonathan Wittwer advised that Section 15-90.080 regarding the time to file for judicial review currently reads 120 days to serve summons. By State Law, that limitation is 90 days.

Director John Livingstone:

- Said that this is a last minute addition to the Update of the Zoning Code.
- Explained that this update process begins with the Planning Commission with a noticed public hearing. Another public hearing notice will be published for another hearing and review by Council before final adoption of the Update to the Zoning Code.
- Described the options available to the Commission. They can review, accept or deny, and/or forward recommendations to Council.

Commissioner Hunter:

- Expressed concern over the amount of material to be reviewed here. Said that she has never before in her six years on the Commission been asked to consider amending 119 pages.
- Said she does not understand why this Update was not broken up.

- Said that while she understands that staff is saying that these are small changes, she does not feel educated enough to vote on all of it at once.
- Stated that she gets the sense that as modified, the Zoning Code will make 30-foot house heights more acceptable.
- Advised that there are things here to be concerned about while other things are simple.
- Asked why so much material is being crossed out.

Director John Livingstone:

- Said that the material can be gone through page by page if that is the desire of the Commission.
- Explained that a couple of years back the height section was amended to allow 30-foot height in order to meet architectural style. That change was never put into the actual document. Until that occurs, someone could come in with a 40-foot height request. This 30-foot is a clarification.

Acting Chair Cappello:

- Clarified that some items have been in the Code for some time but staff is simply putting the required language into the Code to avoid misinterpretation.
- Added that the amendment on heights makes it clear that 26 foot is the standard with an exception available up to 30 feet if it meets specific criteria.
- Reiterated that this is simply clarification and putting language to clarify Code, as it now exists. There is no new Code here.

Director John Livingstone replied correct.

Commissioner Hunter said that she does not agree. Someone could come in and request 32-foot height. She expressed regret that she inadvertently left her notes on this Zoning Code Update at home.

Director John Livingstone:

- Advised that the Section being removed outright is on Water Efficiency.
- Recounted that in his six years with Saratoga, he has never asked someone to prepare that.
- Added that everyone now has drip irrigation systems. Irrigation is now much better and there are common Conditions of Approval imposed now that relate to water efficiency as well as a Water Permit requirement.
- Reiterated that this Water Efficiency Section has never been implemented.

Commissioner Hunter reiterated that she has never seen so much change at once and that she is overwhelmed with the amount of pages here to update.

Director John Livingstone apologized to Commissioner Hunter but explained that when such a Zoning Code update is done piecemeal all the impacted Sections are not caught. One word change can impact several Sections and Chapters of the Municipal Code. This is a minor but important clean up process.

Acting Chair Cappello opened the Public Hearing for Agenda Item No. 2.

Ms. Meg Giberson:

- Explained that she lives in Saratoga's Sphere of Influence.
- Said that she agrees with Commissioner Hunter's concerns about the amount of material here.
- Saluted staff for their work on the update, as it is important to codify what is practiced into the Code. For example, it will be nice to see basement grading written into the Code.
- Said that where items are corrected, she thinks that is great. However, where they are deleted outright she would like to see some analysis especially Page B37, Section 15-13.080(b) that deals with setbacks for vacant lots.
- Suggested that the Commission continue its discussion this evening and then make a decision at the next meeting to allow more review and public participation. That would allow staff time to provide what information and/or process it used to recommend changes.
- Reiterated her suggestion to discuss tonight and continue to the next meeting.

Acting Chair Cappello closed the Public Hearing for Agenda Item No. 2.

Acting Chair Cappello asked for suggestions on how to approach this material, as there is a lot included. He said that going Section by Section is one option but he suggested that they start off with Commissioners raising any questions they may have.

Commissioner Hlava:

- Pointed to Section 14-10.110 Frontage (Page B-3).
- Said that the shorter lot line will not always work and that the front of a house is generally where the address is.
- Added that frontage needs to go from the historic address of a property.

Director John Livingstone:

- Said that planners deal with setbacks to determine what is the front, side and rear setbacks. This Section addresses determining the building envelope only.
- Advised that the front door can actually be wherever the owner wants.
- Added that the address is assigned by the Building Official and does not always correlate with where the front door is located.
- Said that an address can be changed sometimes but not always.
- Said that setbacks is a land use decision and one Section leaves it to the Community Development Director for final decision. This issue constantly comes up.
- Pointed out that using the shorter part of a lot as the front gives a larger building envelope.

Commissioner Hlava clarified with Director John Livingstone that this is just to be able to establish setbacks.

Director John Livingstone said that setbacks and building envelopes are not required to include the front door on the street used in the site's address,

Commissioner Hunter pointed out that some homes have the front door on the side and asked Director John Livingstone how that relates to this.

Director John Livingstone replied that this is a Design Review topic. However, having the front door at the front of a property offers a safety feature. Again, the modification to Section 14-10.110 Frontage does not have any impact on the location of the front door.

Acting Chair Cappello clarified that this is the practice of today and not new ideology. It is based upon interpretations over time and is being added into the Code to maintain consistency. The point is to put this information into writing to clarify it and make it more user-friendly. He asked staff to point out any new areas as they come up.

Director John Livingstone restated that there is nothing new just clarifications.

City Attorney Jonathan Wittwer said that for Code Enforcement purposes a more definitive Code is needed.

Commissioner Zhao raised the issue of Section 15-06.290 that appears to offer another definition of frontage to that in Section 14-10.110. She questioned whether the definition should be the same in both Sections.

Director John Livingstone replied no. They must be customized slightly.

Commissioner Zhao asked staff to explain the difference between Community Development Director and Advisory Agency.

City Attorney Jonathan Wittwer explained that the Advisory Agency is the Planning Commission.

Commissioner Hlava raised the issue of Section 14-10.300(b) Structure, asking why not define as "not a dwelling unit."

Director John Livingstone explained that the key to a secondary dwelling unit is a kitchen. Accessory structures can have a bedroom in it without a kitchen. This is an attempt to clarify including the differences in allowable height. An accessory structure has a lower height allowance than a secondary dwelling unit.

Commissioner Hunter said that she understands the maximum height for accessory structures as being 15 feet. She asked what the height limitation is for a secondary dwelling unit.

Director John Livingstone replied the same as a house or 26 feet. Again, a secondary dwelling unit is not an accessory structure.

Commissioner Hunter:

- Said that secondary dwelling units have not been coming in at the same height as houses.
- Suggested that this amendment might actually encourage higher heights for secondary dwelling units if they are called out in the Code.
- Asked if secondary dwelling units that are deed restricted, as affordable units could be as large as 1,200 square feet.

Director John Livingstone replied yes.

Commissioner Hunter said that they could have what are essentially two houses on the property since many people live in a house not much larger than 1,200 square feet.

Director John Livingstone said yes.

Commissioner Hlava pointed out two Sections on pages B-15 and B-22. One is 15-06.255 Equestrian Zone and the other is 15-10.030 Equestrian Map. Both are proposed for removal. She suggested that the Code ought to identify the area of the City that is an Equestrian Overlay District.

City Attorney Jonathan Wittwer agreed and suggested that this be added to the appendix.

Commissioner Hlava brought up page B-16 and Section 15-06.370 Impervious Surface.

Director John Livingstone said that this Section was ahead of its time and dealt with aesthetics. The City did not want the entire front yard in cement for aesthetic as well as drainage reasons. Today the idea is to keep all water on site. Today there is water permitting with Santa Clara County. Additionally, there are incredible products that look like concrete but are still pervious.

Commissioner Hunter said that this allows use of less dirt and more use of pervious products.

Director John Hunter said that the modification to the Code is dealing solely with aesthetics and taking out the issue of permeability.

Commissioner Hunter asked if the same amount of square footage of impervious surface is allowed.

Director John Livingstone replied yes.

Acting Chair Cappello said that this prevents the applicant from taking a large driveway and using paving stones and pervious concrete. It prevents use of the Code as a loophole.

Commissioner Hlava asked about page B-37 Section 15-13.090(b) as it relates to vacant lots.

Director John Livingstone:

- Said that this as it is in the Code now vacant lots had different setbacks. Neighborhoods in a completely developed area with just one or two vacant lots would require greater setbacks for a new home than all the existing neighbors and result in the need to ask for a Variance.
- Added that upon research conducted by one applicant's attorney, it was discovered that this Section (b) was never formally approved and adopted.

Acting Chair Cappello asked if there are separate setbacks for vacant lots now.

Director John Livingstone replied yes, in Hillside Residential Zoning. He clarified that Section 15-13.090(b) is currently included in the Code but was not in the Ordinance that adopted that Code (Ordinance 71.113S.2)

Commissioner Kundtz asked staff to clarify the deletion of the concept of gross floor area.

Director John Livingstone said that most floor area ratios/impervious surface ratios are based on net. To keep things from getting confused, they are taking gross out altogether.

Commissioner Hunter asked for further explanation of the completely removed section.

Director John Livingstone said that Article 15-47 Water Efficient Landscapes is being removed because there are more current standards and practices being used. This includes Conditions for use of native species and prohibition of the use of pesticides.

Commissioner Hunter said that this is a lot of material being removed. Important items are being deleted.

Commissioner Zhao asked if the actions of the Planning Commission taken at the last meeting have been incorporated in Section 15-12.160 Storage of Personal Property and Materials.

City Attorney Jonathan Wittwer said that the action taken by the Commission is going before Council for second reading next week.

Director John Livingstone added that this update will be reflected but is on a separate path. When it is codified, it will be changed here too.

Commissioner Hunter said that she does not understand if all that is here will be taken together in one motion. She questioned how it is possible to change 100 pages of regulations with one motion.

Director John Livingstone replied that staff is recommending that the Commission adopt all of the Zoning Code Update with one motion including adding the Equestrian Overlay and changing the 120 days to 90 days.

Commissioner Hunter said that she would not support this amendment, as it is too much. She added that ambiguity is sometimes helpful.

Commissioner Hlava:

- Agreed that there is a lot here but it appears to be cleaning up the Code.
- Said that she does not have the same problem as Commission Hunter with this update.
- Stated that she does not agree with the statement made that ambiguity is a good thing.

Commissioner Kundtz said that he is sensitive to Commissioner Hunter's position on this. If time permitted, he would like to see this amount of material talked through more in the future to avoid having something of this volume to be voted upon at once. However, he will support passing this Update to the Zoning Code as amended.

Commissioner Zhao said that staff had explained to her satisfaction that this is mostly clarification and not major changes in Code. She is willing to pass it tonight.

Acting Chair Cappello agreed, saying he had looked carefully to find changes to Code and didn't. He encouraged Commissioners to contact staff early in the process if they have problems with items before the Commission.

Commissioner Hunter advised that she had called staff.

Motion: Upon motion of Commissioner Hlava, seconded by Commissioner Zhao, the Planning Commission adopted a Resolution recommending that Council adopt the proposed text changes to Chapter 15 - Zoning Regulations – of the City Code, with the inclusion of language outlining the Equestrian Overlay and editing Section 15-90.080 to read 90 days instead of 120 to be consistent with State Law, by the following roll call vote:

AYES: Cappello, Hlava, Kundtz and Zhao

NOES: Hunter

ABSENT: Nagpal, Rodgers

ABSTAIN: None

DIRECTOR'S ITEMS

Director John Livingstone assured the Commission that their concern about dealing with a large amount of material has been noted and in the future Study Sessions will be scheduled for items of this magnitude.

COMMISSION ITEMS

Commissioner Hunter:

- Advised that she has participated on the Village Ad Hoc Sub-Committee on Newsracks.

- Said that news racks are out of control in the Village and there are areas with a concentration of the racks.
- Stated that this Sub-Committee is considering design standards.

Acting Chair Cappello asked if there is a permitting process for news racks.

Commissioner Hunter said that this issue has to be clarified but since 1956 people have been putting these racks out.

COMMUNICATIONS

There were no Communications Items.

ADJOURNMENT TO NEXT MEETING

Upon motion of Commissioner Hunter, seconded by Commissioner Kundtz, Acting Chair Cappello adjourned the meeting at 8:46 p.m. to the next Regular Planning Commission meeting of **August 9, 2006**, at 7:00 p.m.

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