

**MINUTES  
CUP JOINT STUDY SESSION  
SARATOGA CITY COUNCIL & SARATOGA PLANNING COMMISSION**

**MAY 5, 2009**

Mayor Page called the Joint Study Session meeting to order at 6:30PM.

**ROLL CALL**

PRESENT: Councilmembers:  
Susie Nagpal, Howard Miller, Jill Hunter, Vice Mayor Kathleen King, Mayor Chuck Page,

Planning Commissioners:  
Yan Zhao, Linda Rodgers, Mary-Lynne Bernald, Joyce Hlava, Doug Robertson and David Reis

ABSENT: Manny Cappello

ALSO PRESENT: Dave Anderson, City Manager  
Richard Taylor, City Attorney  
Ann Sullivan, Acting City Clerk  
John Livingstone, Community Development Director

**REPORT OF CITY CLERK ON POSTING OF AGENDA FOR MAY 5, 2009**

Ann Sullivan, City Clerk, reported that pursuant to Government Code Section 54954.2, the agenda for the meeting of May 6, 2009, was properly posted on April 30, 2009.

**COMMUNICATIONS FROM PUBLIC**

No one requested to speak at this time.

**ORAL COMMUNICATION and COUNCIL DIRECTION TO STAFF**

None

**JOINT MEETING AGENDA ITEM:**

**1. Review Requirements for Businesses that are Permitted or Conditional Use**

John Livingstone presented the staff report.

Director Livingstone explained the differences between uses requiring Conditional Use Permits (CUP) and a Permitted Use and added that Council has expressed an interest in reducing the cost, time, and uncertainty of obtaining a Conditional Use Permit. In addition, as a result of this concern, Council has already taken steps to address some of these concerns by creating an incentive program that will reimburse applicants for the cost of applying for Use Permits that are considered important to the community; which are one of each:

- Family Style Restaurant
- Bakery
- Grocery Store
- Wine Tasting
- Ice Cream or Yogurt Store
- Arts & Crafts Instructional Activities
- Undesignated

Director Livingstone noted that this evenings meeting would address whether or not some uses that require Conditional Use Permits should be changed to permitted uses. He added that once you designate a Conditional Use as a Permitted Use you will lose some of the control over the use.

Mayor Page added that the purpose of this meeting is to determine which of the conditional use permit places on the list should be allowed to be a permitted use, which would save applicants \$4,700 in CUP fees.

Mayor Page invited members of the Council and Commission to address any concerns they have regarding this issue.

The following issues were raised:

Councilmember Miller:

Environmental Impact Review  
Zoning Districts  
Mixed Uses  
Businesses that provide vehicle oil changes

Councilmember Hunter:

Prefers a logical pattern to businesses in commercial districts

Councilmember Nagpal:

Administrative Design Review process; how far along is this and will it shorten the process  
(*Director Livingstone noted that the Administrative Review process is ready to go before a public hearing.*)

Commissioner Hlava:

Outdoor motor vehicle sales  
Regulation Summary regarding storage facilities in specific zones

Planning Commission has concerns regarding facilities that serve alcohol; need to have some control over alcohol being served

Commissioner Robertson:

Administrative Review process and transition of staff

Commissioner Rodgers:

Suggested improving parking signage to make it more appealing to newcomers to the Villages

Yan Zhao:

Instead of subsidizing a new business, why not loan them the CUP fees and have them pay it back in a year or so; we aren't giving existing businesses money.

**PUBLIC INPUT:**

The following people requested to speak:

Marilyn Marchetti:

- Supports keeping the Conditional Use Permit; easy to provide and difficult to control if it is a permitted use.
- Make the Chamber of Commerce a Permitted Use

Kristin Davis:

- Supports tutoring businesses with some conditions on second floor of building and behind main street frontage on the first floor.
- Existing Conditional Use Permit process is too long and uncertain.

Scott Anderson:

- Voiced concern about the amount of time it takes to get CUP (3-6 months).
- Supports entire Incentive CUP list – in existing structures.

Cheriel Jensen:

- Supports entire Incentive CUP list – in existing structures.
- Does not support a Jamba Juice.
- Alcohol/bar business to scale – should be a CUP within specified amount of feet from residential area – build in thresholds.
- Shorten length of time it takes to get CUP.
- Supports new building size of 3,000 square feet as permitted use.

Maryilyn White:

- Supports shuttle bus service.

Paul Hernandez:

- Consider valet parking on Oak Street School District.  
(Mayor Page noted Valet Parking is already available.)

- Asked if a study has been done regarding the availability of commercial square foot parking in the Village.

*(Mayor Page noted a study had been conducted on a Thursday and Saturday evening and it was determined that approximately 85% of available spaces were used and there is adequate parking available.)*

Emily Lo:

- Supports permitted use for entities like the Chamber of Commerce.
- Review the permitted use businesses every two years – some businesses are market driven.
- City should do all they can to make people aware of additional parking in back of business establishments.
- Doesn't feel it is fair to compare the Village with other shopping areas regarding parking and walking distance to other shops.
- Visitors that are new to the Village are not familiar with the parking districts.

Lillian Benson:

- Would like to see a public restroom in the Village.
- Opposes some of the Incentive CUPs.
- Would like to see a grocery store.

Vice Mayor King asked if the CUP Incentive list could be set up as a 2-year moratorium.

Planning Commissioner Reis suggested limiting the number of specific types of business, i.e., have it be a permitted use up to a certain point and then it has to be conditional.

Vice Mayor King inquired about environmental impact reports.

Community Development Director Livingstone noted that would depend on the scope – if you want to do all the businesses that are on the Incentive CUP list.

City Attorney Richard Taylor noted the more you do the more time it will take and recommended Council and Planning Commission first think about what they intend to do; if it is good policy for Saratoga, and the type of constraints; adding that this would make Director Livingstone's task much easier. The Planning Commission could hold several more study sessions and come up with a proposed ordinance. Most of the environmental reports could take six months to do and 70% of the problems could be taken care of during the public process. Limit scope of environmental review by not building anything new – you are simply changing what goes into the space with a limited number per zoning district.

SUMMARY:

Vice Mayor King:

- Look at all items on CUP list – excluding undesignated.
- Supports new buildings up to 3,000 square feet.

- Supports permitted tutorial on second floor and back area (not ground floor facing front).
- Okay with tutoring, arts and crafts, instructional activities.
- Review after 2 years.

Councilmember Hunter:

- Not in favor of tutoring.
- Does not support Yogurt or Ice Cream store.
- One applicant/one incentive.
- Supports up to 4,000 square feet on new building.
- No opinion on second floors.
- Should wait and see how Administrative Review Process works.
- 2-year review.

*(Noted the landlords are taking steps to help the Village by lowering rental rates)*

Councilmember Miller:

Noted that the goal is to determine the lay of the land for the next 20 years and that doesn't mean you have to put everything on a list. He added that we would like a grocery store, but does that mean we allow all grocery stores to be permitted uses forever – such as a 7-11?

- City should have a long-term vision and should work on a city ordinance that lasts forever; not good legislative planning that may change in two years.
- Come up with a narrow focus list that is going to be the vision for the community for a long time.
- Supports city ordinance for sub division – not the sun-setting clause.
- Likes the CUP process, but need to make it more approachable.
- Would like to see the results of the Administrative Review process first.
- Doesn't support a 2-year moratorium.
- Oil change issue – every city should take responsibility to manage it; should be able to make this work in Saratoga.
- Supports permitted tutoring; determine building size or use by total number of people using the service.
- Businesses that attract more than 50/100 customers per day would need permit – makes it easier to deal with environmental impact issue.
- Supports any business that doesn't impact traffic.
- Supports new building size up to 3,000 sq. ft.
- No opinion on second floor.

Councilmember Nagpal:

- We are currently in the process of creating a significant change, which is the Administrative Review Process.
- Should wait and see how Administrative Review Process works.
- Does not support moving the list of incentive CUPs into permitted uses at this time.
- Important to set perimeter goals regarding foot traffic, vehicular traffic, variations in mixed use; then develop all the other criteria based on that information.
- Before we start making conditional use permits that are currently conditioned use permits permanent uses, we need to see if we have been effective in reducing permit time and costs.

Commissioner Rodgers:

- Supports incentive CUPs for 2 years-then re-evaluate.
- One incentive per commercial area.
- Supports permitted tutorial on 2<sup>nd</sup> floor/back area (not ground floor facing front).
- Supports new building size up to 3,000sq.ft.
- Define chain stores.
- Does not support outdoor motor vehicle sales.
- Need to convey a business friendly environment.
- Create a downtown parking loop in Districts 1 and 2.
- Advertise back parking lots to make them user friendly.

Commissioner Hlava:

- Restaurants, markets and delicatessens could be permitted uses, however any establishment selling alcoholic beverages should remain a Conditional Use Permit in all commercial districts.
- Tutoring schools, dance schools, Martial arts, Arts and Crafts, and language schools permitted in commercial zoning districts as long as they are not at street level.
- Oil changes should be allowed.
- Pharmacy should be a permitted use anywhere in Saratoga's commercial districts.
- Chamber of Commerce, any merchants association or visitors bureau should be a permitted use in the commercial districts.
- Look at outdoor sales or storage of motor vehicles in high-density zones – in at least one zone. Not supportive of chain store ordinance.
- Does not support certain building size.
- Would like to first see how Administrative Review process works first.
- Alcohol sales need CUP.

City Attorney Richard Taylor noted the municipal code could be amended stating anyone that has a use permit for a gas station automatically allows them to perform oil changes.

Commissioner Zhao:

- We have already agreed to stream-lining the CUP process with the implementation of the Administrative Review process. Would like to see how this works before committing to the new incentive permitted uses. Supports permitted use for arts and crafts and tutoring only on second story/back location.
- Feels this is a drastic step to change so many things to permitted use at one time.

Commissioner Reis:

- Agrees with Councilmember Nagpal and Commission Zhao regarding the incentive permitted use list; prefers caution.
- Recommends establishing a criteria for each of the incentive categories regarding which district and how many per district;
- Alcohol sales for each district needs to be established.
- No major re-builds up to specified number of square footage.
- Supports up to 3,000sq.ft. for new buildings.
- Specify number of incentives per district.

- Supports permitted tutorial on 2<sup>nd</sup> floor/back area (not ground floor facing front).

Commissioner Robertson:

- Agrees with all incentive categories for permitted use.
- Need to define family-style restaurant.
- Alcohol sales should be permitted with right kind of family style restaurant.
- Supports permitted tutorial on 2<sup>nd</sup> floor/back area (not ground floor facing front).
- Feels 3,000sq.ft. for new building is a short term vision.
- Specify number of incentives per district.
- Doesn't support a size limit on existing buildings.

Commissioner Bernald:

- Agrees with Councilmember Nagpal that before we start making conditional use permits that are currently conditioned use permits permanent uses, we need to see if we have been effective in reducing permit time and costs.
- Should wait and see how Administrative Review Process works.
- Define family restaurant and alcoholic beverage sales.
- Chamber of Commerce, any merchants association, or visitor's bureau should be a permitted use in the Commercial Districts.
- Supports permitted tutorial on second floor/back area (not ground floor facing front).
- Bakeries and ice cream shops – limited number.
- Grocery store – not sure that 3,000sq.ft. is viable.
- Supports a 2-year moratorium and scheduled review.
- Specify number of incentives per district.

Mayor Page:

- Supports permitted tutorial on second floor/back area (not ground floor facing front).
- Concerned about moving things from Conditional Use Permit process to permitted use.
- Voiced a concern that only 10 people attended this meeting.
- Would not include a neighborhood grocery store in the incentive list.
- Supports taking what we have come up with this evening; create a Blue Ribbon Task Force or commission; invite citizen input and have them define the types of usage that should be permitted.
- CUP process problem is about the time it takes, not the cost.
- Administrative Review Process will shorten the CUP time period.
- Need to educate the public.
- Items that should be moved out of CUP should be tasked to citizens.

**OPTIONS:**

- Delay incentive list until administrative approach is in place
- Create Blue Ribbon Task Force
- Go back to Planning Commission as next step – after Zoning Administrative Review Process

**OPTION PREFERENCES:**

- ❖ Blue Ribbon Task Force (led by Mayor Page): Miller, Page

- ❖ Move forward with incentive CUP list to Planning Commission: King
- ❖ Wait for results from Zoning Administrative Review Process: Hunter, Bernald, Nagpal, Hlava, Zhao, Reis, Rodgers, Robertson

**CONCENSUS & DIRECTION:**

Record and preserve this information, begin education process, and wait for results of zoning administrative process.

CUP Study Session adjourned at 10:00pm.

Respectfully submitted,

Ann Sullivan, CMC  
City Clerk