

**CITY OF SARATOGA**

**CITY COUNCIL & PLANNING COMMISSION**

**6:00 PM PUBLIC HEARING / SPECIAL MEETING  
JULY 21, 2010**

Vice Mayor Jill Hunter presided over the Public Hearing / Special Meeting during the absence of Mayor King and called the meeting to order at 6PM.

Vice Mayor Hunter asked everyone to stand and led the Pledge of Allegiance.

**ROLL CALL**

**PRESENT:** Councilmembers Manny Cappello, Chuck Page, Howard Miller, Vice Mayor Jill Hunter  
Planning Commissioners Joyce Hlava, David Reis, Douglas Robertson, Yan Zhao, Mary-Lynne Bernald, and newly appointed commissioner, Tina Walia.

**ABSENT:** Mayor Kathleen King  
Planning Commissioner Linda Rodgers

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

**REPORT OF CITY CLERK ON POSTING OF AGENDA**

City Clerk Ann Sullivan reported that pursuant to Government Code Section 54954.2, the agenda for the meeting of July 21, 2010 was properly posted on July 16, 2010.

**COMMUNICATIONS ON NON-AGENDIZED ITEMS**

None

**PUBLIC HEARINGS**

1. Legislation concerning Commercial, Professional and Administrative Office, and Mixed Use projects including (1) proposed ballot measure to limit to two stories structures in all Commercial and Professional and Administrative Office Zoning Districts; (2) General Plan Amendment to limit density increases to the existing C-N(RHD) zoning district; and (3) Zoning Ordinance Amendments concerning mixed use projects, nonconforming uses, and related matters.

Community Development Director John Livingstone, presented the staff report and asked everyone to refer to the supplemental staff report and ballot measure attachment that was made available to Council and Planning Commission later today, after the posting of the July 16, 2010 agenda.

City Attorney Richard Taylor noted that this evening's public hearing was to hear public testimony on the proposed ballot measure and on the ordinance amendments that the Planning Commission would be considering, followed by Council and Planning Commission discussion. He added the Planning Commission would be asked to provide the City Council with a recommendation regarding the ballot measure and if the Planning Commission believes the proposed measure should be placed on the November 2010 ballot.

In addition, he noted there would be Council discussion of the previously discussed zoning ordinance amendments and General Plan amendments to the mixed use and related areas, followed by Council direction to the Planning Commission to address those amendments and provide Council with a specific proposal.

### **DISCUSSION:**

Commissioner Doug Robertson commented about the provision for the northwest side of Big Basin Way allowing for the provision of a below-grade story permit of no more than 42 inches above grade. He noted there was an earlier provision in the City code that limited this to three stories on the back side of Big Basin and now that is no longer included in this proposal and questioned if this is addressed in our current code.

City Attorney Taylor noted there is currently nothing in the City code referring to "stories or story limit" in the CH1 or CH2 Districts, adding the ballot measure has a "two story" limit in all commercial districts, which would apply in all CH Districts as well as the Commercial Districts – except for the RHD. The ballot measure includes an exception to the two-story limit primarily for the below grade structures on Big Basin Way.

Commissioner Robertson noted that there is a steep slope along Big Basin Way and based on an engineering standpoint, a certain depth has to be considered in order to provide a foundation to support a structure located in that type of slope.

Councilmember Page responded that the reason the "42 inches" is noted in the proposed ballot measure is because that is the City's standard definition of a basement; a basement is allowed to be up to 42 inches above ground level.

Commissioner David Reiss asked if that means there could potentially be two basements.

Councilmember Page responded that it could include two basements.

Councilmember Miller added that the "story" appearance goal was from the street view and that it would not appear as a "three story" structure from Big Basin Way.

Commissioner Joyce Hlava asked if it would it be possible to build a structure like the existing "Sam Cloud Barn" or the "Inn at Saratoga" based on the proposed measure wording.

Councilmember Page responded that it may be possible based on the fact that currently when you look at the “Inn at Saratoga” from Big Basin Way, you only see two stories above ground, however, from that perspective additional stories could be built below ground on that property. If the entrance is on a different road, which it is, there may be some restrictions if it is more than two stories at any point. He added there could never be more than two stories showing above ground.

Commissioner Hlava noted that basically the “Inn at Saratoga” is four or five stories, is in the CH1 District, and meets the requirements regarding the view from Big Basin Way; however, from its entry way, it is five stories and is in the CH1 District.

Councilmember Page noted that the proposed two story measure wording refers to the Northwest side of Big Basin Way or the Creek side of Big Basin Way where this two-story structure exception is allowed.

Councilmember Miller added that on the Northeast side of Big Basin Way a basement could be allowed by following the normal two-story rules.

Commissioner Hlava expressed her concerns regarding the length of time that the measure, if passed, would be in effect, which is until December 31, 2039, adding that is a very long time.

Councilmember Miller noted that the December 31, 2039 date was reflected in the original Initiative wording.

Councilmember Page noted that if the ballot measure passes, it reflects a certain set of values that would be in place for a specific amount of time, adding that another vote by the people could change that.

Vice Mayor Hunter added that if there was a proposed project that the people supported, a vote by the people could be taken on that project as well.

Vice Mayor Hunter opened the public hearing for comment.

The following people requested to speak on this item:

Jim Foley thanked the Adhoc committee – Councilmembers Chuck Page and Howard Miller, and staff for their efforts in working with the ballot measure steering committee to come up with language that supported the vision of the Saratoga community.

Jeff Schwartz thanked the Council, Adhoc committee, Planning Commission, and staff for their efforts in working together to bring an acceptable conclusion to an adversary initiative process.

Marcia Fariss thanked all the people involved in the two-story height limit ballot measure for their hard work and efforts regarding the Initiative.

The following people spoke in support of the proposed ballot measure:

Anthony Fisher  
Trish Cypher  
Lorie Ellingboe

Paul Roland

Shirley Cancellieri addressed the Council stating she was not supportive of this ballot measure and the restrictions it imposes.

No one else requested to speak at this time.

Vice Mayor Hunter closed the Public Hearing.

Vice Mayor Hunter asked for comments from the Planning Commissioners:

David Reis:

- Doesn't agree with the Initiative.
- Feels the proposed ballot measure wording is constricting.
- Supports putting the measure on the November ballot.

Yan Zhao:

- Is pleased with the changes made to the wording of the original Initiative.
- Supports the new proposed ballot measure.
- Supports putting the measure on the November ballot.

Doug Robertson:

- Is pleased with some of the changes made to the original Initiative wording regarding the Northwest side of Big Basin Way.
- Does not support what the Initiative would do.
- Supports revitalization of the Village, however, not in favor of big retailers.
- Revitalization may be more difficult with this Initiative
- Concerned about some of the word changes made in the Initiative.
- Supports putting measure on the ballot for the voters to decide.
- Hopes supporters of the Initiative make it very clear to the voters exactly what the proposed Initiative does and does not do and that they try to stymie misinformation.

Joyce Hlava:

- Has concerns about the number of people talking about the possibility of three story development in the Quito Village area or administrative areas, which would never be allowed to be built due to the 26 foot height limitations.
- Concerns about some of the buildings that exist today and that they would not be allowed to be built if this Initiative passes.
- Concerned about the entire Initiative process and the lack of Planning Commission involvement.
- Feels there may be other property owners that are not aware of the changes that could affect their property if the measure passes
- Feels the 30 year time frame from now until December 31, 2039 is too long.
- Would like the Planning Commission to have the opportunity to provide more input before this measure is placed on the November ballot.

Tina Walia: (newly appointed Planning Commissioner participating in her first commission meeting)

- Noted that she has read the information pertaining to this subject and it is clear to her.
- Has no issues with the way the Initiative has been written.

Mary-Lynne Bernald:

- Has mixed feelings about the Initiative.
- Noted this is a procedural vote by the Planning Commission and wished they had more time to really discuss the Initiative.
- Supports allowing the Saratoga citizens to voice their opinion by voting on the measure in November.

Chair Mary-Lynne Bernald called for a motion to staff's recommendation.

YAN/REISS MOVED **TO ACCEPT STAFF RECOMMENDATION**. MOTION PASSED 4-1-1-0 WITH COMMISSIONER HLAVA OPPOSING, COMMISSIONER ROBERTSON ABSTAINING AND COMMISSIONER RODGERS ABSENT.

Vice Mayor Hunter asked Council to provide direction to the Planning Commission as a follow-up to the above stated motion.

Councilmember Miller noted the following action items for the Planning Commission:

- ❖ New changes to General Plan related to maximum density meant to apply to new zoning district off Prospect Avenue. Clarification in General Plan needed.
- ❖ Worked on several issues related to smaller projects, which was tentatively defined as five or fewer units. For projects that are smaller than that, shared parking may be a possibility.
- ❖ Relaxing retail requirements to be less than 50% for Commercial Mixed Use projects may be acceptable. Larger projects would require more rigid rules.
- ❖ Various non-conforming ordinance changes to assure that we are not inadvertently declaring existing structures or properties nonconforming.
- ❖ Clean up to be consistent with ballot measure.
- ❖ Timing issue – needs to fall in sync with ballot measure (Registrar of Voters Office dates) and be brought back to the Council within a reasonable amount of time.

MILLER/PAGE MOVED **THAT THE PLANNING COMMISSION ADDRESS THE FOLLOWING AMENDMENTS TO THE CITY CODE: 1) SPECIFY THAT MIXED USE PROJECTS MAY INCLUDE LESS THAN 50% COMMERCIAL SPACE (IF AUTHORIZED BY THE PLANNING COMMISSION) ONLY IF PROJECT INCLUDES FEWER THAN FIVE RESIDENTIAL UNITS; 2) SPECIFY THAT MIXED USE PROJECTS MAY SATISFY SOME OR ALL OF THEIR PARKING REQUIREMENTS THROUGH SHARED PARKING (IF AUTHORIZED BY THE PLANNING COMMISSION) ONLY IF PROJECT INCLUDES FEWER THAN FIVE RESIDENTIAL UNITS; 3) CONSIDER A GENERAL PLAN AMENDMENT TO CLARIFY THE GENERAL PLAN TO PROVIDE THAT THE HIGHER DENSITIES CURRENTLY ALLOWED IN THE CN(RHD) DISTRICT AT PROSPECT AND LAWRENCE AVENUE ARE ALLOWED ONLY AT THAT SITE AND NOT ELSEWHERE IN THE CITY; 4) IF**

**BALLOT MEASURE IS ADOPTED THE PLANNING COMMISSION WILL ALSO BE CONSIDERING: (A) AN AMENDMENT TO THE NON-CONFORMING USE ORDINANCE TO ENSURE THAT EXISTING OR CURRENTLY APPROVED STRUCTURES THAT DO NOT CONFORM TO NEW REQUIREMENTS IMPOSED BY THE BALLOT MEASURE MAY REMAIN AS LEGAL CONFORMING STRUCTURES; AND (B) ANY OTHER ZONING CODE AMENDMENTS NECESSARY TO ENSURE THAT THE ZONING CODE IS CONSISTENT WITH THE BALLOT MEASURE AND OTHER AMENDMENTS DESCRIBED ABOVE.** MOTION PASSED 5-0-0.

Councilmember Miller suggested that if the measure passes in November the Planning Commission commence work on the items noted in the motion no later than January 2011.

Council unanimously concurred with this recommendation.

There being no additional business, Mayor King asked for a motion to adjourn the Special Meeting.

MILLER/PAGE MOVED TO **ADJOURN THE SPECIAL MEETING AT 6:58PM.**  
MOTION PASSED 5-0-0.

Respectfully Submitted,

Ann Sullivan, CMC  
City Clerk