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SAUSALITO PLANNING COMMISSION
Wednesday, October 12, 2011
Approved Summary Minutes

Call to Order

Chair Bair called the meeting to order at 6:30 p.m. in the Council Chambers of City Hall, 420 Litho Street, Sausalito.

Present: Chair Stan Bair, Vice Chair Stafford Keegin, Commissioner Joan Cox, Commissioner Richard Graef, Commissioner Bill Werner

Staff: Community Development Director Jeremy Graves
Associate Planner Heidi Burns, Associate Planner Lilly Schinsing,
City Attorney Mary Wagner

Election of Officers

Chair Bair moved and Commissioner Werner seconded a motion to nominate Commissioner Keegin as Planning Commission Chair. The motion passed 5-0.

Commissioner Werner moved and Commissioner Bair seconded a motion to nominate Commissioner Cox as Planning Commission Vice Chair. The motion passed 5-0.

Approval of Agenda

Commissioner Cox moved and Commissioner Werner seconded a motion to approve the agenda. The motion passed 5-0.

Public Comments on Items Not on the Agenda – None

Approval of Minutes

Commissioner Cox moved and Commissioner Werner seconded a motion to approve the minutes of January 9, 2008 as amended. The motion passed 5-0.

Commissioner Werner moved and Commissioner Cox seconded a motion to approve the minutes of January 23, 2008 as amended. The motion passed 5-0.

Public Hearings

- 1. DR/EA 09-133, Design Review Permit, Encroachment Agreement, Webb, 71 Glen Drive.** Design Review Permit and Planning Commission recommendation of an Encroachment Agreement to allow for the construction of a detached two-car garage, the construction of a new courtyard with stairs connecting to the existing residence, the conversion of the existing one-car attached garage into habitable space, and the installation of new landscaping for an existing single-family dwelling located at 71 Glen Drive (APN 065-112-23).

1 **Commissioner Werner recused himself from the hearing and left the room.**

2
3 **Chair Keegin indicated as there were now four Commission members three**
4 **affirmative votes would be required to approve the application.**

5
6 Associate Planner Burns presented the Staff Report.

- 7
 - Staff received emails from Elizabeth Martin and Linda Milark, both in support of

8 the project.

9

10 **Chair Keegin indicated he had met with Mr. Toyloy of 63 Glen Drive, the property**
11 **owner east of the subject property.**

12
13 **Commissioner Cox indicated she had spoken with Mr. Toyloy by telephone.**

14
15 **Commissioner Graef indicated he had spoken with Mr. Toyloy by telephone.**

16
17 **Commissioner Bair indicated he had spoken with Mr. Toyloy by telephone.**

18
19 Commission questions to staff:

- 20
 - The Commission was given a recommended additional Condition of Approval

21 at the beginning of the meeting from Michael Rex, the applicant. Has the

22 Planning staff also received and reviewed it? *Staff responded they received it*

23 *at the same time as the Commission and Mr. Rex will explain its meaning*

24 *during his presentation.*

25

 - Is the existing wooden wall to the left of the house and garage the same height

26 as shown on the elevation for its entire length? *Staff responded no, it is not.*

27 *Although the height cannot be seen in the two-dimensional drawing, the*

28 *purpose of having it in the elevation is to show that there is a fence along the*

29 *property line.*

30

31

32 The public testimony period was opened.

33

34 Presentation was made by Michael Rex, architect and applicant.

- 35
 - Since the Commission's last hearing in June 2010 he has worked closely with

36 the Webbs and their neighbors and have made the following changes to the

37 project:

 - There were concerns that the garage was too large. The usable space of

38 the garage has been shrunk from 35 feet to 27 feet. The back of the

39 garage will be used for storage. The garage ceiling will be dropped 3 feet

40 in the rear to provide room for shelving.

 - They now have a fully developed landscape plan for the entire front of the

41 garage from the house down to the edge of the pavement.

 - There were concerns about the previous gate's character and mass. It has

42 been made simpler with a more contemporary design. The 7-foot wide

43 steps had not been in keeping with the Sausalito village character and

44 have been narrowed to 5 feet with planting beds on both sides.

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- The 6 feet, 8 inch tall wall has been reduced to 5 feet, 6 inches. It will be planted with Boston ivy and will be earth tone color to further soften it. There will be room for planting in front of it.
 - The interior stair, which made the garage bigger, has been removed. A door in the garage will be installed for people to exit and go up the exterior stairs.
 - The courtyard has been reshaped be more consistent with the garage.
- The reason for the additional Condition of Approval he distributed at the beginning of the meeting is that the area 15 feet out from the side property line is an access and utility easement that serves two neighbors – the neighbors to the west and Marilyn Oliver who lives up behind. Although there is a trail going to the Webbs house that Ms. Oliver has the right to access, Ms. Oliver may not want to intrude on the Webb’s privacy. After meeting with Ms. Oliver it was decided to pull the fence over 4 feet to allow her an unencumbered pathway where she can install steps at her expense and a gate at the bottom. They have not resolved the details, and because any uses by the Webbs in the easement could be construed as obtaining a prescriptive right, they need an attorney to draft language to record in the Webb’s title that Ms. Oliver can approve those improvements so they would not block her access but she could revoke the approval and demonstrate her legal right to the full access of the 15 feet. Because it has not been finalized in order to give Ms. Oliver some assurance they propose as a Condition of Approval that they have to have that easement resolved and an agreement recorded prior to a final permit being signed off for the garage.
- The driveway will be a muted tan concrete with a scored pattern to break up the mass and conceal the expansion joints.
- The calculated height of the structure is 5 feet, 6 inches, but will be higher where the hill will be dug out. Five feet, six inches is measured from average grade, but is still considered a low structure.
- There are many garages like this one in the neighborhood. Digging a garage into a hill when on a steep uphill lot is standard practice in Sausalito.
- There are two letters in the packet from people supportive of the project that have visited the Webbs and understand how steep their driveway is. Going up is difficult and backing out is scary. The Webb’s mother will no longer visit them because she was so afraid to go up and down the driveway.
- The Webbs plan to remodel their home in incremental phases with the garage being built first to act as a staging area. The design for the house remodel will be submitted to the Commission under a separate application. The basic footprint will not change except to add on a little in the front, which will have the same color, character and materials as the garage.
- All of staff’s Conditions of Approval are acceptable to them except Condition 26, which states “Will have a civil engineer certify that the entirety of the proposed garage and retaining walls are completely outside the Glen Drive right-of-way.” In fact there are two small walls in the right-of-way that help retain the grade so the adjacent areas does not need to be disturbed, one of which contains an oak tree they must stay 9-10 feet from. They need an Encroachment Agreement for the driveway and landscaping and the two walls.

1 Commission comment to Mr. Rex:

- 2 • Although there are many garages similar to yours in Sausalito and on Glen
3 Drive, there are none that have a deck looking over the street. *Mr. Rex*
4 *responded there actually are quite a few of them and they are not creating a*
5 *new precedent. Mr. Toyloy expressed concerns about privacy because their*
6 *outdoor space would be right below the proposed garage. The original plan*
7 *had a trellis with vines, which seemed artificial, so instead they propose a*
8 *laurel hedge that would continue up past the courtyard and run all the way up*
9 *to the house.*

10
11 Public Comments:

12 Ricardo Toyloy, 63 Glen Drive, distributed a packet to staff and the Planning
13 Commission containing photographs and indicated the following:

- 14 • He shares a property line with the Webbs
- 15 • The distributed photographs show the scale of the garage and how it will be
16 directly over his existing yard and how close it will be to his fence..
- 17 • He and his wife have no problems with the Webbs developing their property,
18 but they are concerned about the overall size and character of the garage its
19 potential impacts on their quality of life.
- 20 • He would like to see the Webb's home remodel plans as they are developed.
- 21 • The addition of the roof deck to the garage makes it taller than some portions
22 of his fence and is level with the highest portion, which is 10 feet.
- 23 • He does not understand the grade at 5 feet, 6 inches that was mentioned by
24 Mr. Rex, because the natural grade level that was expressed by Mr. Henry, the
25 City building inspector, was at the property line, which is 10 feet-plus. There
26 was some back fill that may account for that.
- 27 • It appears the garage and the roof deck will comprise more than 50-percent of
28 the entire property. He does not see any residential structures in the
29 neighborhood of that nature or size.
- 30 • He believes the magnitude of the garage will loom over their property and
31 devalue it.
- 32
- 33

34 Commission question to Mr. Toyloy:

- 35 • The fence is built on top of a small retaining wall, so what is the height from the
36 retaining wall to the top of the fence. *Mr. Toyloy responded from the retaining*
37 *wall to the top of the fence he has measured at eight feet and change.*

38 Annette Webb, 71 Glen Drive, indicated the following:

- 39 • They wish to improve their life. All they want is a garage to provide off-street
40 parking for themselves and their friends. They have spent a lot of money on
41 this project and have tried to work with the neighbors.

42 Dennis Webb, 71 Glen Drive, indicated the following:

- 43 • As Mrs. Webb stated, they only wish to have a garage and improve their
44 property. They do not have stairs going up to their house, which is a safety
45 issue. They have to climb the hill, which can be difficult and dangerous during
46 the rainy season.

- He feels right now their property is pulling down Mr. Toyloy's property value, but improving their property would help maintain everyone's property value.

Craig Russell, 53 Glen Drive, indicated the following:

- Overall he is in favor of a garage for the Webbs, however he does not like the idea of people looking down into his yard.
- If the stairs were on the left it would provide more of a buffer and give Mr. Toyloy privacy, and the Webbs could have the same size garage and stairs to their house.

Marilyn Oliver, 50 Glen Court, indicated the following:

- Her easement is currently blocked by the deer fence. She supports Mr. Rex's Condition of Approval to provide a 4-foot path area for her.

Mr. Rex's Rebuttal to public comments:

- One of the reasons for the roof deck on the garage is for a vegetable garden, as it is one of the few sunny spots available to the Webbs. They do not wish to look down on their neighbors, which is the reason for the laurel hedge. There is nothing in the code that prohibits a rooftop garden.
- The ten-foot fence was built by the Webbs in contract with the Toyloys and rises above a retaining wall. The Webbs can only build a fence on their property line at 6 feet high. The reason the fence is ten feet high on the Toyloy's side is because the previous owners of the Toyloy's property did a giant cut and excavated land to get a level garden out front, creating a huge offset between the two properties. The Webbs should not be punished for that.
- If they put the steps on the left side people will be coming up and down them right next to the Toyloy's property, leading to less privacy for the Toyloys. Also the hill keeps going up to the right. If they put the garage on the right side of the property it would require even more excavation and disruption and it would be harder to get into the garage. In addition, the front door will always be on the right side of the house, so the Webbs want the steps to be in line with the front door. A lot of thought went into the placement of the garage and he believes it is where it should be.
- Regarding the 50% over-development characterized by Mr. Toyloy, they are within building coverage, impervious surface, et cetera. There is nothing unusual in their requests.

Commission question to Mr. Webb:

- Did the fill of the area on your side of the fence bring the land up so that you could have a six-foot fence? *Mr. Webb responded where their natural grade comes down he put 20 yards of dirt over 85 feet, which raised the ground 6.5 inches. They had a topographical survey done before they bought the property that shows exact heights from grade mark. None of them have moved at all, because there was a 5-foot hedge there before and the land is exactly the same as it was, minus the 6 inches that was filled in where the two properties meet to prevent an obstacle where one might fall.*

The public testimony period was closed.

1
2 Commission comments:

- 3
- 4 • The modifications that have been made to project have been positive, such
5 that the necessary findings can now be made.
 - 6 • The privacy concerns have been addressed with the laurel hedge. They are
7 bushy and grow fast, so in a short period of time that will no longer be an issue.
 - 8 • The fence's height of 10 feet is due to the grade. That is the way it is in
9 Sausalito when one has a steep grade.
 - 10 • The garage has been scaled back and cut into the hill and will be a good
11 addition.
 - 12 • Although there has been concern regarding the project being done in
13 increments, that is how it is done sometimes and it will give the neighbors an
14 opportunity to comment further as the project progresses.
 - 15 • The things that lead to concern regarding the incremental design, such as the
16 mansard style roof, interior staircase, and scale and placement of the garage,
17 have all been changed, making this project much more consistent with the
18 character of the neighborhood and with the garage being designed in a more
19 utilitarian manner.
 - 20 • It is appreciated that the lattice deer fence is not a total blockade, as well as
21 the wisteria, ivy and the building materials and the fact that this will be sunk low
22 enough to be as unobtrusive as possible.
 - 23 • Staff's recommended Conditions of Approval are appropriate to ensure the
24 structural integrity of the fence and the backfill.
 - 25 • There is no problem in recommending an Encroachment Agreement for a
26 parking garage that obviously will be used primarily for parking and to protect
27 the grade and the oak tree.
 - 28 • The Commission appreciates the extensive neighborhood outreach and
29 accommodations to the extent possible made by the applicant.
 - 30 • The purpose of that deck is a garden and not an entertainment place, which is
31 a key part of this. There should be a condition stipulating that it only be used
32 for that purpose.
 - 33 • The project has not been sited in a way reflective of the location of the garage
34 via-a-vis the downhill neighbor. There were plenty of other ways of siting it that
35 the applicant has chosen not to do. Nevertheless, the project has been
36 improved substantially.
 - 37 • It is a bothersome element that there are no other roof decks on top of a
38 garage overlooking a street anywhere in the neighborhood, but the plantings
39 referred to by Mr. Rex will go a long way towards ameliorating the privacy
40 issues of the downhill neighbor.
- 41
42

43 Commission question to staff:

- 44
- 45 • Is Sheet L-1 of the plans incorporated into the application a part of the project
46 so that failure to make the plantings indicated there would be a violation of the
47 permit? *Staff responded that is correct, however staff suggests the Planning
48 Commission consider an additional Condition of Approval that would require a
49 maintenance agreement for the laurel hedge to be maintained adequately for
50 its survival.*

1 Staff comment:

- 2
- 3 • Regarding the Condition of Approval allowing Ms. Oliver access to the
4 easement, the details worked out between the Webbs and Ms. Oliver belong
5 in the private agreement between those two parties, the City does not need to
6 be involved in the details. The language drafted by staff for the Condition of
7 Approval enables the benefited easement holder to concur before issuance of
8 the building permit. Once staff has that concurrence the terms worked out
9 between the neighbors can be put in whatever document they choose. The
10 City is not in the business of enforcing the width of the path.

11 Amended Condition of Approval:

- 12
- 13 • Condition of Approval 26: Add language to the end that states, "Except as
14 otherwise approved in the Encroachment Agreement," so that the applicants
15 cannot go outside of the Glen Drive right-of-way except as permitted by the
16 Encroachment Agreement they are seeking in connection with their application.

17 Additional Conditions of Approval:

- 18
- 19 • The property owner shall maintain the laurel privacy hedge at the downhill side
20 of the garage at a height that maintains the privacy of the adjoining property
21 owner.
 - 22 • Prior to issuance of a building permit the owner shall submit evidence that the
23 installation of the deer fence is acceptable to the owners of the property
24 benefited by the easement. Evidence shall be shown that it has been recorded
25 in the Marin County records.

26
27 **Commissioner Bair moved and Commissioner Cox seconded a motion to approve**
28 **a Design Review Permit and recommend an Encroachment Agreement for 71 Glen**
29 **Drive subject to the additional Conditions of Approval. The motion passed 4-0.**

30
31 The public hearing was closed.

32
33 **Commissioner Werner returned to the meeting.**

34
35 **Chair Keegin moved and Commissioner Cox seconded a motion to amend the**
36 **agenda to hear Communications as the next item since Commissioner Graef**
37 **needed to depart the meeting early. The motion passed 5-0.**

38
39 **Communications**

40 **Staff**

- 41
- 42 • Bar Bocce Conditional Use Permit Compliance: At the 9/7/11 meeting the
43 Commission asked staff to look into concerns raised by the public regarding
44 Bar Bocce. Staff has not received a response from the owner yet.
 - 45 • The City Council approved the Historic Design Guidelines at their last
46 meeting. Copies will be printed and distributed to the Planning Commission.

47 **Commission**

- 48
- 49 • Letter from Historic Landmarks Board (HLB) Chair Pierce to Planning
50 Commission Chair Bair, dated September 28, 2011:

- This letter points out issues with the way the HLB operates and sees their role. The HLB played the role of design consultant to the applicant for 565 Bridgeway, overstepping their charter and the purview of their responsibilities. Members of the HLB were advocating for the project as opposed to evaluating it and providing a recommendation.
- While the Commission's remarks may have been condescending towards some aspects of the design, the comments were not condescending toward any members of the HLB.
- The Secretary of the Interior's Guidelines refer to the treatment of historic resources, not to infill buildings. The HLB's own recently adopted research guidelines say, "An interpretation of an historic style that is authentic to the district may be considered if it is subtly distinguishable as being new." It does not say one cannot do it.
- There may a structural problem in the way the joint meetings of the Planning Commission and the HLB are conducted with respect to the procedures followed making the appropriate roles for each member unclear.
- The statement by Chair Pierce that the Planning Commission presently lacks adequate representation by design professionals ignores the fact that two of the Planning Commissioners are well qualified design professionals who previously sat on the Design Review Board.
- Comments made by the Planning Commission regarding the 565 Bridgeway project were consistent with Chapter 10.54 of the Design Review Procedures and were in the spirit of those guiding principles.
- The Planning Commission acted appropriately in its role as planning commissioners, which includes the responsibility for design review.
- A meeting should be set up between staff, the Chair of the Planning Commission and the Chair of the HLB to address the procedural concerns.

Commissioner Graef left the meeting.

Old Business

2. ZOA 10-038, Study Session: Omnibus Zoning Ordinance Amendments, City of Sausalito. Zoning Ordinance Amendments modifying Sausalito Municipal Code Titles 1, 2, 10 and 11.

Associate Planner Schinsing presented the Staff Report.

Commission comment:

- In Number 7 and Number 8 the diagrams for Uphill and Downhill Building Height have been reversed and the arrows in the diagrams need to be turned perpendicular to the contour lines.

Commission questions to staff:

- Why does staff want to eliminate the Building Height Determination Site Plan diagrams? *Staff responded because they indicate that the average height is*

1 *calculated from the four corners of the building, which is not what the Zoning*
2 *Ordinance says. It is actually calculated from the highest and lowest points.*

- 3 • In Section 10.50.180 on page 39 subparagraph A3 has an “and” at the end of
4 it, but should it be an “or” instead? *Staff responded yes and it will be corrected.*
- 5 • At the end of Section 10.50.180 paragraph D, Appeal, on page 40, appealed by
6 whom? *Staff responded by any interested party.*

7
8 **Commissioner Cox moved and Commissioner Werner seconded a motion to**
9 **direct staff to schedule a public hearing on the Omnibus Zoning Ordinance**
10 **Amendments for November 9, 2011. The motion passed 4-0.**

11
12 **New Business**

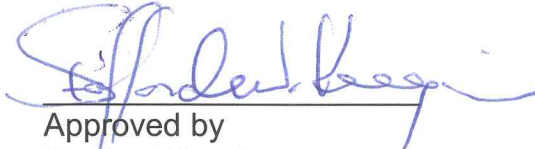
13 None.

14
15 **Adjournment**

16 The meeting was adjourned at 9:05pm.

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20 _____

21 Submitted by
22 Jeremy Graves, AICP
23 Community Development Director

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19 
20 _____

21 Approved by
22 Stafford Keegin
23 Chair

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25 I:\CDD\Plan Comm\Minutes\2011\10-12-11-Approved.doc