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2
3 **_SAUSALITO PLANNING COMMISSION**
4 **REGULAR MEETING**
5 **Wednesday, April 23, 2008**
6 **APPROVED MINUTES**
7

8 At 6:30 p.m., Chair Kellman convened the April 23, 2008 Regular Meeting of the
9 Sausalito Planning Commission in the Council Chambers of City Hall at 420 Litho
10 Street.

11
12 **ROLL CALL**

13
14 **PRESENT: Commissioners Bair, Petersen, Bossio**
15 **Vice Chair Keller; Chair Kellman**

16 **ABSENT: None**
17

18 **APPROVAL OF AGENDA**

19
20 **Chair Kellman moved, seconded by Commissioner Bossio, to approve the**
21 **agenda as submitted.**
22

23 **ROLL CALL**

24
25 **AYES: Commissioners Petersen, Bossio and Bair;**
26 **Vice Chair Keller; Chair Kellman**

27 **NOES: None.**
28

29 **DIRECTOR'S REPORT**

30
31 Community Development Director Jeremy Graves reported to the Commission
32 on the issue of lighting at Bridgeway Gas that was raised in public comment at
33 the April 9, 2008 meeting. Staff has looked into the existing regulations of the
34 Municipal Code as well as the situation at Bridgeway Gas. The Municipal Code
35 does not contain lighting specific regulations except to the extent that by practice
36 it is regulated through the standard development review process for applications;
37 secondarily is regulated through code enforcement, typically as a nuisance action
38 if appropriate. Looking at the lighting situation at Bridgeway Gas, a review of the
39 file reveals that the service station went through a design review in 1994 and
40 1995 which addressed the construction of a new canopy and the installation of
41 new lighting. The lighting improvements were reviewed by the design review
42 board at that time and the applicant, as part of the conditions, was required to
43 have the lighting reviewed by an electrical engineer at the time of installation.
44 Additional conditions addressed issues such as recessed lighting and limitations
45 on the lighting intensity which were intended to mitigate the impacts to
46 neighboring residences and businesses. A lighting study was subsequently

1 performed and that study concluded that the lighting as installed was consistent
2 with what was approved by the design review board. Based upon public
3 comment and the Commission's direction, staff is continuing to investigate this
4 matter and will be conducting a night time visit as well as reviewing the new
5 fixtures that were installed to determine whether they are consistent with the
6 lighting originally approved by the design review board; then, if necessary, staff
7 will contact the property owner to bring the site into compliance where
8 appropriate.

9
10 Vice Chair Keller said he's been down there late in the evening and those lights
11 are incredibly bright in relation to the apartments that are on the upper level.
12 From his recollection, those lights were put in after the original application of
13 1994. Are there any time restrictions on those lights?

14
15 Mr. Graves said his review of the conditions of approval for the project did not
16 reveal any time restrictions on the lights. Certainly it did appear that there were
17 conditions that spoke to the intensity of the light.

18
19 Vice Chair Keller said they're intense, and they're on late.

20
21 Mr. Graves said that's correct and if they are more intense than what was
22 originally approved, the property owner would need to come back to the
23 Commission for an approval for that new lighting.

24
25 Commissioner Petersen said if the lights are compliant with the previous
26 approval but yet are really obnoxious, is there anything that the City can do? If
27 they're in compliance but they are still a real nuisance?

28
29 Mr. Graves said he'll bring the issue up with the City Attorney.

30
31 Commissioner Petersen said he doesn't know if they have light ordinances
32 similar to the noise ordinances the City has.

33
34 Mr. Graves said it seems not.

35
36 Commissioner Petersen said so if they are in compliance with the approval,
37 there's very little the City can do. Hopefully it's something that can be worked out
38 with the neighbors.

39
40 Mr. Graves said certainly the staff will be asking the applicant to provide
41 justification that the new lights are in compliance with the originally approved
42 conditions. They either are or are not.

43
44 Commissioner Petersen said it would be wise for the Commission to know when
45 they're approving lighting to know exactly how much of the lighting is going to
46 spill off the property. They currently use pretty simple language about shielded

1 and downward facing, but if the light is 40 feet in the air that still allows for a lot of
2 spillage into the neighboring properties.

3
4 Vice Chair Keller noted the Commissioners have received numerous emails
5 recently with regard to 33 Miller Avenue. The Commission hasn't had an update
6 from staff about the property; it really disturbs him when he gets an email from
7 neighbors saying that there's work being conducted on Sunday.

8
9 Mr. Graves said that property is an ongoing enforcement situation. Staff is
10 working with the City Attorney on that issue. With respect to the property owner's
11 contractors working hours outside of those hours allowed by City regulations for
12 construction, staff has had discussions with the police department on that and
13 the police chief today has reminded his troops of the restrictions on construction
14 hours in the Municipal Code. He is confident that if a comparable complaint
15 comes in in the future that the police department will be ready to enforce those
16 sections of the Municipal Code, for example, regarding work on a Saturday or
17 Sunday.

18
19 Chair Kellman said one of the items that the Commission has been hoping to
20 address is the idea of administrative penalties in the community and the fact that
21 they are incredibly below market, if you will. It's something that they would like to
22 form a subcommittee on and move forward with, so once Mr. Graves gets his
23 feet on the ground, he should be aware of the Commission's desire to address
24 this issue and perhaps model the City's efforts on those currently in place in
25 Tiburon. It's a huge problem and quite often the Commission hears people that
26 come in say "Well, what happens if we don't comply?" or "What happens when
27 my neighbor doesn't comply?" At this point the Commission doesn't have a whole
28 lot to say. So when the planning staff is ready, the Commission is ready to
29 address this issue.

30
31 Mr. Graves said the City Council is going to be holding a strategy session Friday,
32 which is open to the public, where the councilmembers will be reviewing the
33 priorities for the different departments in the City. One of the items up for
34 discussion for the planning department is code enforcement. It's an all day
35 session from 8:30 a.m. until 4 p.m. Presently the City's code enforcement is done
36 on a complaint driven basis and handled by the planning staff. They are down a
37 deputy planning director as well as an assistant planner in the department and
38 certainly from his perspective if the City is able to get an assistant planner on
39 board, one of his or her responsibilities will be to increase code enforcement.
40 Without that position being filled, enforcement will continue to be handled on a
41 complaint-driven basis. With the budget shortfalls being reported at the state
42 level, the state is going to be looking to make up a large portion of that shortfall
43 by additional take aways from the cities, so Sausalito is anticipating budget
44 reductions and there's a good likelihood the two positions of deputy planning
45 director and the assistant planner will be frozen.

1 Chair Kellman said the Commission has been talking about this for a long time
2 and someone ran the numbers and found if they took all the red tagged projects
3 and multiplied them by the number of days they were red tagged and then
4 applied any sort of real, meaningful penalty, those penalties would actually pay
5 for a full time code enforcement person.

6
7 Mr. Graves said the question is what is a "real penalty."
8

9 Chair Kellman said she's basing it on what surrounding communities have, such
10 as Tiburon or Belvedere.

11
12 Vice Chair Keller said the way it is right now, it's a hundred dollars and that's it,
13 as opposed to a dollar amount per day. He appreciates what Mr. Graves' is
14 saying, but the City needs to segregate code enforcement with levels of fines.
15 Kenneth does an exceptional job in terms of inspection on projects as well as
16 tagging projects. It's always been Vice Chair Keller's contention that it's ludicrous
17 in light of the cost of doing business, that if someone is doing a million dollar
18 project and the fine is only \$100 to get red tagged, he'll do that all day long.
19 That's cheap. And the City needs to segregate the two. Code enforcement is one
20 thing and that can be done on a complaint basis, it's more a matter of the level of
21 fines. They are just so out of date; the present levels go back to the '50s.
22

23 Mr. Graves said he concurs with the Commission's concerns. Typically the fines
24 are in three levels, that increase per day. The issue is on the list; it is on the
25 radar.

26
27 Chair Kellman said speaking of bringing money to the community, she
28 understands the Parks and Rec Committee is meeting to discuss whether or not
29 to allow a local cycling club to hold a race in town in June. Does the planning
30 department have any involvement in that?

31
32 Mr. Graves said no.
33

34 Chair Kellman invited Planner Sierra Russell, as they go through the solar
35 process and any other involvement she has with the GHD initiatives in the
36 Community and Marin County, to feel free to put those on a director's report or
37 staff report; it would be great to keep the community informed, particularly as to
38 how the solar process is going.
39

40 Ms. Russell said Chair Kellman can also contact the new Parks and Rec director
41 about the Parks and Rec Commission meeting on the bicycling event.
42

43 **PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

44
45 Chair Kellman asked for public comment on items not on the agenda.
46

1 No response.

2
3 **APPROVAL OF MINUTES**

4
5 **Chair Kellman moved, seconded by Vice Chair Keller, to approve the**
6 **minutes of January 9, 2008 minutes**

7
8 **The motion was approved unanimously without a roll call vote.**

9
10 **NEW PUBLIC HEARINGS**

- 11
12 **1. 660 BRIDGEWAY (CUP 08-002/APN 065-133-25)**
13 **Chris Henry (Owner/Applicant)**

14
15 **The applicant and property owner, Chris Henry, requests Planning**
16 **Commission approval of a Conditional Use Permit to convert a vacant**
17 **second story tenant space located at 660 Bridgeway into offices. The second**
18 **story tenant space has been vacant for several years and was previously a**
19 **restaurant use. No exterior changes are proposed to the structure, and the**
20 **interior changes proposed consist of new wall partitions in the upper story,**
21 **new ADA accessible bathrooms, new ADA elevator/lift, installation of fire**
22 **sprinklers, and repair of dry rot.**

23
24 **Staff Report by Assistant City Planner Sierra Russell**

25
26 Ms. Russell reported that this is an application requesting Planning Commission
27 approval of a Conditional Use Permit to convert a vacant second story tenant
28 space located at 660 Bridgeway into offices. The second story tenant space has
29 been vacant for several years and was previously a restaurant use. No exterior
30 changes are proposed to the structure, and the interior changes proposed consist
31 of new wall partitions in the upper story, new ADA accessible bathrooms, new
32 ADA elevator/lift, installation of fire sprinklers, and repair of dry rot.

33
34 This property is located in the Central Commercial zoning district in the Downtown
35 Historic District at the corner of Bridgeway and Princess (pointing to map). The
36 building is adjacent to Yee Tok Chee Park. The bottom floor currently houses retail
37 stores. The upper story was previously Houlihan's and has been vacant since that
38 restaurant closed approximately three years ago. The property is also adjacent to
39 Richardson Bay. There are no proposed exterior changes but the proposal for the
40 use permit would include new wall partitions to create four new office spaces and
41 each one would include an ADA-accessible bathroom and an ADA lift to bring the
42 property into compliance with ADA regulations.

43
44 Ms. Russell displayed the existing elevations of the structure. In terms of historical
45 background, this site was previously the site of the Sausalito Land & Ferry
46 Company. This photo was taken in 1910 and it houses the real estate offices for

1 the Sausalito Land & Ferry Company. Later the upper story housed Sausalito's
2 first public library. In the 1940s this structure was demolished and the Purity
3 Market was built in 1941; this is a photo from 1969. In the 1980s it was remodeled
4 to include that exterior second story portion which doesn't really integrate well with
5 the architecture. The building previously was used for two restaurants; it was used
6 for Houlihan's for approximately 18 years and was then vacated; it's been vacant
7 for approximately three years.

8
9 Commissioner Petersen said it was Water Street Grill for a few years, also,
10 correct?

11
12 Ms. Russell said that's correct. This application did go to the Historic Landmarks
13 Board and the Board reviewed the conversion proposal on February 25 and April
14 7, 2008. Ultimately the Board forwarded a recommendation of approval to the
15 Commission with a 2 to 1 voice. Two Boardmembers were in favor of the use
16 conversion but had concerns relating to storage of office materials and other office
17 related supplies in front of the window and how that might impact the view along
18 Bridgeway. Their feeling was that they could recommend approval with a condition
19 of approval that the applicant would employ actions to reduce visibility of office
20 equipment and materials from off site locations. The Board also expressed
21 concern related to the economic impacts on the Downtown Historic District and its
22 economic vitality. Specifically one Boardmember was not supportive of the project
23 due to concerns about impacts to financial stability, vitality, and visitor attraction to
24 downtown. A 2-1 vote on the board is a majority vote.

25
26 In terms of compliance with the zoning ordinance, the use conversion does not
27 trigger additional off street parking as the new office requires less parking than
28 was previously required for the restaurant.

29
30 Chair Kellman asked how staff can make that determination prior to knowing who
31 the tenants are going to be? For example, if it's a doctor's office, can the
32 Commission make that same determination?

33
34 Ms. Russell said yes, because for any office, it's one space per 300 square feet.
35 Restaurants are the highest intensity parking requirement, so it would be hard to
36 find a use that required additional parking other than a restaurant.

37
38 Commissioner Petersen noted that for Houlihan's and for many of the restaurants
39 that are there, they're generally serving people who are taking the boat over and
40 then most of the people who work there probably take Golden Gate Transit to get
41 there. So, in truth, there's a whole different world of parking reality versus the
42 code.

43
44 Ms. Russell said in order to approve the use conversion the Commission will need
45 to make the office conversion findings, which are listed in detail in the staff report
46 and in the attached resolution. As staff has summarized in the attached resolution,

1 staff is recommending that these findings can be made for a variety of reasons. In
2 particular, one of the findings requires that the change in use will not create an
3 overconcentration of offices within the Central Commercial District, and staff has
4 verified this by walking the downtown to see how many upper story offices there
5 are and also checking business licenses. From what she could see there are
6 approximately three buildings that house offices in the upper story. Based on the
7 concentration of retail and other uses, it didn't appear that this would create an
8 over concentration of offices within the Central Commercial District. The new use
9 is also providing for a less intense parking demand than the previous restaurant
10 use.

11
12 The Planning Commission will also need to make the findings required for the
13 conditional use permit; those findings are also listed in the attached resolution.
14 One of those findings is that the use is consistent with the purpose of the Central
15 Commercial District and the Downtown Historic District. Again, staff is
16 recommending that these findings could be made relating particularly to findings A
17 and D; A is that the purpose of the Central Commercial District is to provide for a
18 wide variety of retail and service businesses. The offices would be considered a
19 service business, of which there are currently few in the downtown, that could
20 potentially bring in employees who would patronize local businesses. The other
21 issue is the town encourages ground floor retail and upper floor residential uses.
22 This obviously isn't residential use, but this structure hasn't historically been used
23 for residential on the upper floor. It is designed for more storage/office-type uses
24 and was used for that with the Purity Market and later was used for retail and
25 restaurants which hasn't proven economically viable. So for those reasons the
26 offices would be of similar intensity to residential use.

27
28 For those reasons, staff can recommend those findings can be made. Staff is
29 recommending approval of the conditional use permit as included in the attached
30 resolution.

31 32 **Presentation by Applicant Architect**

33
34 **Richard Berling** is an architect with Pacific Design Group in Larkspur. He thanked
35 Ms. Russell for her excellent staff report. His firm approached the project three or
36 four months ago; the space had been vacant for over three years' and is in great
37 disrepair. The reason Houlihan's shut down was lack of economic viability and the
38 lack of handicap accessibility factors. The applicant's primary goal is to bring it up
39 to compliance. With that as a directive, they made the bathrooms accessible and
40 while they were doing the upgrades, the owner was grappling with what kind of
41 use would be appropriate for this space with a world class view of the City. In the
42 three years that it's been vacant, maintenance has been deferred and there's
43 rotting taking place. The primary goal of the project is to establish what use is
44 going to be there. They investigated what would make the most sense regarding
45 the concept of professional offices. It didn't make sense to do a lot of small offices.
46 Due to the circulation pattern, bisecting the building into a bay side and a street

1 side, each half approximately 1,200 to 1,500 square feet, seemed to make the
2 most sense. They went ahead with floor plans to accommodate that program and
3 that is what is before the Commission that evening.

4
5 **Remarks by Applicant/Property Owner Chris Henry**

6
7 Mr. Henry owns 660 Bridgeway. He is asking for the Commission's help with this
8 particular building. It has a long history in Sausalito as a restaurant and before that
9 it was used as offices. He's asking for the office use due to the fact that's he tried
10 to rent the space out during the year that he's owned it and he hasn't had any
11 takers for the restaurant space, but he's had a lot of interest for office. In fact, he
12 has a letter of intent from a long-time San Francisco maritime company who is
13 interested in renting half the space upstairs. The office use conforms to some of
14 the other buildings in the historical area of downtown. It will actually lower the
15 traffic impact compared to a restaurant use. There's been some talk about vitality,
16 how office use may lower the vitality of the downtown Sausalito area. He
17 disagrees with that assessment. Vitality will actually increase because office use
18 will bring in office workers who will patronize the local restaurants and shops
19 downtown.

20
21 Commissioner Petersen asked Mr. Henry if he's pursued restaurants as tenants?
22 There are groups where you can pitch this use as a restaurant. How eager was he
23 to actually get a restaurant? Has it been a real effort or was it just during the time
24 he was looking for tenants, no one happened to come by that was interested in
25 putting a restaurant there?

26
27 Mr. Henry said he contacted a lot of successful local restaurant people. He talked
28 to Larry Mindell and some other local restaurant people, not only in Marin but in
29 San Francisco. Their main opinion was that second story restaurants aren't
30 economically viable. That people today just don't want to go upstairs to eat. That's
31 what he's been hearing over and over from experienced restaurant people. He's
32 had quite a few other people look at it and that seems to be the obstacle; nobody
33 seems to want to go upstairs to eat. The restaurants that have been there have
34 failed; it has a long history of restaurant failure. Economically speaking he thinks
35 that offices are the best way to go, from a landlord's standpoint.

36
37 Chair Kellman asked did Mr. Henry have a certain vision for the property when he
38 purchased it a year ago?

39
40 Mr. Henry said originally he thought it would make a nice high-end restaurant. But
41 he's learned a lot in the past year from talking to experienced restaurateurs. He's
42 just been told over and over that a second story restaurant is not economically
43 feasible. He's a long term investor. He has a vision for the building. He'd like it to
44 influence the downtown area. He's interested in participating somehow in
45 upgrading the park and the handicap area adjacent to the building. It would be
46 nice to see it attract more people. It has a lot of possibility, given its location, and

1 the views are first class views. He has a long term vision and he plans on being
2 there quite a while; he's a long term investor.

3
4 Chair Kellman said the staff report mentions the maritime company from San
5 Francisco and then it said "several other local professionals." Is that something
6 that's written in stone or he's just had inquiries?

7
8 Mr. Henry said that's not written in stone yet. He has a letter of intent from a San
9 Francisco maritime company to lease approximately half the space.

10
11 Chair Kellman asked if there has been any additional interest?

12
13 Mr. Henry said yes; Larry Mindell is interested in renting one of the offices and Mr.
14 Henry is potentially interested in taking one of the offices for his company.

15
16 Chair Kellman asked staff what is the vacancy rate in town for office space, further
17 away from downtown? Has there been a discussion about anticipated rents and
18 how those compare to the rents that are being asked at some of the existing office
19 space?

20
21 Ms. Russell said that's a good question and the answer is no, staff did not look into
22 that. That type of economic data hasn't been collected for the downtown as of yet.

23
24 Mr. Berling said the rents in Sausalito for office space range from two to three
25 dollars a square foot and this probably would be at the higher end.

26
27 Vice Chair Keller noted it says in the staff report that Mr. Henry is intending to put
28 in a new ADA elevator lift?

29
30 Mr. Henry said that's located to the right as you come in the front door.

31
32 Vice Chair Keller asked if he's talking about what's called the common area? He
33 doesn't see anything for the elevator.

34
35 Chair Kellman asked if the architect can point out on the plans where it says
36 "elevator."

37
38 (Architect pointing to drawings.)

39
40 Chair Kellman asked if that area should be indicated as an elevator on the plans?

41
42 Mr. Berling said yes.

43
44 Chair Kellman said that change needs to be made.

45

1 Chair Kellman said she notices that there are no exterior changes proposed; why
2 is that? The applicant is going to be making structural changes, there is dry rot,
3 they are installing an elevator. Mr. Henry said he wanted to impact the community,
4 upgrade the look and feel; would he be open to making some exterior changes?
5

6 Mr. Henry said absolutely. In fact, he's worked with Don Olsen on that particular
7 aspect but they're not ready to make a presentation yet.
8

9 **Public Comment**

10
11 **Mike Monsef** lives on Fourth Street. He is in a very difficult position. He is
12 speaking on behalf of himself. He would like to correct the record. He is a member
13 of HLB; he thought there had to be 3 votes in favor to approve a project. The vote
14 was 2 to 1; he voted against the project. As long as he has been in Sausalito, he's
15 seen three restaurants in this building. There was one before Houlihan's and then
16 Houlihan's came in and then Water Street Grill took over. Now, to get to the body
17 of his concern. He believes the area next to the property used to be a parking lot
18 and the City decided to share that beauty for everybody in the community and they
19 converted that parking lot into a park, which is Yee Tok Chee Park right now. He
20 believes in property rights and he's having a hard time objecting to Mr. Henry's
21 proposal, but he believes that sociologically the project will negatively affect
22 downtown. Mr. Henry's project would reverse what was done to the parking lot,
23 i.e., convert it to a park. The Commissioners should be aware that the impact of a
24 decision in favor of Mr. Henry would not show the damage to downtown for a few
25 years. He is often told by members of the community, "I have no interest to be
26 downtown because the bakery's gone, the butcher's gone, and now I don't see
27 why I should be downtown." By eliminating a place like Old Water Street
28 restaurant, which was a hang out for a bunch of young upscale members of the
29 Sausalito community, the City is increasing that frustration for people. There's no
30 reason for these people to come downtown now. He remembers he used to go
31 downtown to listen to music. When Mr. Henry bought this property, he knew what
32 the problems were and with that understanding, he bought this property. Mr.
33 Monsef is a real estate agent himself, and at one point he approached Mr. Galen,
34 who was the owner, Mr. Galen was asking for \$9 million. Mr. Monsef had someone
35 from Texas come in at \$7.5 million; they were interested in the place. Mr. Henry
36 ended up buying this place for six-something million. With handicap access being
37 provided to that building a restaurant can be operated there. He has told Mr. Henry
38 that, "As much as I would like you to be here, I have to go against this." He's only
39 one person, but he knows the impacts on downtown; he spends a lot of time
40 downtown.
41

42 Chair Kellman said the Commission knows how active Mr. Monsef is in the
43 downtown area. The testimony before the Commission is that the space has been
44 vacant for three years. So her question to Mr. Monsef, as a member of the
45 downtown association and as someone involved in the downtown community, is
46 what kind of trade the City is making in putting in a use where the potential is to

1 actually have tenants and have people going in and out and taxes coming to the
2 City versus the fact that it's been vacant for three years. Three years of vacancy
3 really hasn't done anything to enhance the vitality of the community.

4
5 Mr. Monsef said he can answer that. Of the three years that it was vacant, a
6 couple of years were when Mr. Galen had it. Mr. Galen and the owner of the Water
7 Street Grill were in a feud. Mr. Galen didn't want to spend the money to put in the
8 handicap access, or elevator, over there. Then when Mr. Henry bought it. Mr.
9 Monsef said he has shared with Mr. Henry that there is an identical piece of
10 property on Shattuck in Berkeley that some distant family member of Mr. Monsef's
11 bought and converted to a mini-ferry terminal. It's a very successful piece of
12 property. A lot of people go over there and spend a lot of time over there. It doesn't
13 have to be a restaurant, it can be commercial upstairs. But by converting it to
14 offices, you eliminate the public privilege to take advantage of that beautiful view
15 and limit it to a few privileged people. He doesn't know whether Mr. Henry has
16 really spent the time to research another use. Putting a sign out "For Lease," is not
17 sufficient. People will not come to you. Mr. Monsef rents a space downtown.
18 Sometimes he has to give something in order to bring them in. He wonders what
19 offers have been given to these potential tenants in order to bring them downtown.
20 Sociologically it's very important that when you design or start planning something,
21 you create a center focus for the town. If you go to the old towns in Europe, the
22 church is the center focus and all the houses are built around it. For Sausalito, as
23 a downtown, if they keep eliminating these activities downtown you're going to kill
24 the downtown.

25
26 Chair Kellman noted that on page 4 of the staff report the CUP finding related to
27 impacts on downtown, says "The purpose of the Central Commercial District is to
28 allow for continuous ground floor retail frontage and prohibit establishments that
29 break up such continuity, and to provide for upper floor residential uses." Would
30 Mr. Monsef have this same opinion if Mr. Henry wanted to put four apartments
31 there?

32
33 Mr. Monsef said yes, he would.

34
35 Chair Kellman said by code it says the purpose of the Central Commercial District
36 is "to provide for upper floor residential uses." So he would be able to do that
37 under the code.

38
39 Mr. Monsef said at that point the historical value comes into play. He remembers
40 when he tried to convert the little pizza place to the walkway and they said, "it's
41 cute, don't touch it." Now, they are changing because--

42
43 Chair Kellman said what she's not getting is what is the historical value of the
44 structure. Is it the use? Is it the exterior? What is it in his mind?

1 Mr. Monsef said the use is a historical value, especially when you come to the
2 downtown, the use is a historical value. When the applicant came to HLB, two of
3 the Boardmembers voted for it; one said it was because it has less impact of the
4 traffic; the other one was in favor because there was no direction in the bylaws of
5 HLB to deny or to accept it. But from his point of view, it's a psychological impact,
6 a sociological impact to downtown. It's very important.

7
8 Chair Kellman said but to be clear if the applicant were proposing four small
9 condos, Mr. Monsef would have the same argument? Even though residential
10 uses on a second floor is specifically called out as allowed in the Central
11 Commercial District.?

12
13 Mr. Monsef said when the code says something, then you have to evaluate it-- you
14 have to go beyond the code to understand whether the historical value is important
15 or not. To answer her question, no, he doesn't have any objection. His objections
16 are personal. He's not talking on behalf of anybody, but he knows downtown, he
17 knows the impact of this business downtown and he knows how much it is going to
18 damage downtown. They want the traffic; the vitality. Another question: one of the
19 biggest taxpayers in the community are restaurants.

20
21 Vice Chair Keller said let's be realistic. The City has he doesn't know how many
22 restaurants in Sausalito; the restaurant business is a very difficult business; the
23 City had Ondine's, which was redone, but couldn't make it. The City has maybe
24 two or three restaurants downtown that are doing reasonably well. The City sees
25 restaurants closing all the time. It's a difficult business. If Mr. Monsef was in this
26 owner's position, is he telling the Commission he wouldn't want diversification in
27 this building from the standpoint of revenue as opposed to putting another
28 restaurant on the second floor of a place that's been vacant for three years?

29 There's going to be complaints from the tenant down below who already is running
30 a café restaurant. You're going to have two restaurants in one building. It seems
31 that if you have four offices up there, you're going to have permanent traffic,
32 people that are going to be using the downtown area every day because they're
33 working there. What would Mr. Monsef put up there? If he owned this building,
34 what would he put up on the second floor? If you can't find a restaurateur who's
35 willing to go into that space, what would you put in there?

36
37 Mr. Monsef said he is a restaurateur, he was a restaurateur, he had Gatsby's.

38
39 Vice Chair Keller asked how many times has that place turned over?

40
41 Mr. Monsef said he knows. But as long as he had it, he turned around overnight, in
42 one weekend, he changed that and he made it successful. He competed with Gate
43 5 and he won. But the people that came in, of course they ruined it. And another
44 thing, he remembers when the restaurant above Poggio--

1 Vice Chair Keller said the bottom line is if you're a property owner and you actively
2 go out-- which they applicant says he's done-- and even if he doesn't, if you don't
3 find a restaurant that's willing to go into that space, you have to look for other
4 alternative sources of revenue for that commercial space. It's very logical. He can
5 understand why a restaurateur wouldn't want to move in there. Look at Gaylord's,
6 look at that space.

7
8 Chair Kellman suggested not getting into a debate about whether a restaurant
9 should be there or not. She understands Mr. Monsef is opposed to the project and
10 that he feels it's going to negatively impact the vitality of the downtown.

11
12 Commissioner Petersen asked Mr. Monsef, aside from restaurants, are there other
13 types of uses that he could suggest just as a local businessman and property
14 owner? Mr. Monsef knows the pulse of downtown; what are other kinds of socially
15 interactive uses that may not be quite as volatile as a restaurant? The first thing he
16 thinks of is the Depot Café, which serves a similar function to Mill Valley as this
17 could for downtown Sausalito, which is part retail, part restaurant. Is there some
18 kind of combination that's a little bit more engaging of the public that allows people
19 to move through that beautiful space, which is right adjacent to a park and the
20 water, and right adjacent to the main downtown intersection?

21
22 Mr. Monsef said you can make it commercial; that's what he suggested to Mr.
23 Henry; he advised Mr. Henry to go see this place down on Shattuck. What they did
24 upstairs, they had a little smaller commercial area and the way they attracted-- the
25 same way they attracted people to go up to Village Fair, people went up there
26 when there was some attraction to go up there for. The City can do that, you know,
27 revitalize the upstairs. And that place on Shattuck is very successful and they
28 never have a vacancy. To answer Mr. Keller, yes, a restaurateur has to be a
29 special people, not everybody can be a restaurateur. Plus Francois had the
30 restaurant up on the second floor and it was a successful restaurant for a long
31 time. So in any event, whatever decision the Commission makes, obviously he'll
32 have to respect it, but on the other hand, he will warn that by changing this one to
33 residential or office space, it's like putting a dagger into the heart of downtown.

34
35 **Vicky Nichols** is the chair of the Historic Landmarks Board. She respects Mr.
36 Monsef's passion about his point. When HLB was shown the plans, one of the
37 reasons that she could make the findings that this was going to be of lesser impact
38 than it had been as a restaurant is as this plan was proposed these are going to
39 be four large offices. She did raise the question of what she saw happen in
40 Marinship during the dot com where 20 people were squeezed into those spaces,
41 and there's nothing to say that can't happen again, but HLB did try to point out that
42 these were smaller offices and the furniture wouldn't be piled up in the windows so
43 you see all these computers and that kind of thing. As long as they are small
44 spaces, that's what the HLB was considering as the use. She doesn't know if the
45 size can be part of the conditions of approval, but that's what the applicant
46 represented to the HLB.

1
2 Mr. Monsef said a good example is the little café down in Mr. Henry's building, how
3 many people came in that couldn't make it until Mauro went in over there. His
4 character made that place and now it's successful.

5
6 **Aness Pogni** owns Jewelry by the Bay; she's a tenant of Mr. Henry's. She's been
7 in Sausalito for 25 years, she's had about six stores in town. She's experienced life
8 with a restaurant upstairs and she's experienced life without a restaurant up there
9 for the past three years. She's had pretty good business in the last three years
10 without the restaurant. She doesn't see a big loss of the vibrancy downtown
11 without a restaurant there. She is looking forward to having professional, local,
12 nontourist tenants working in the downtown area so it would attract more people to
13 her store that are more local, which she doesn't get so much. Her business is very
14 slow in the wintertime, very busy in the summer, and she likes the idea of
15 attracting local business people.

16
17 No further public comment.

18
19 **Public Comment Closed.**

20
21 **Commission Discussion**

22
23 Chair Kellman asked for Commission comments. Does anyone have a strong
24 opinion either way?

25
26 Commissioner Bossio said she has a strong opinion in favor of the project. If Chair
27 Kellman feels otherwise, she can start.

28
29 Chair Kellman said she actually does have a strong opinion otherwise. If the City
30 does allow offices in this area, they will be beautiful offices. The City also then
31 starts going down the pathway of "What is the Downtown Historic District?" and
32 inevitably someone points to the last office space and the last office space and the
33 City may sort of lose that area. She cannot but think -- and she doesn't know Mr.
34 Henry and she means no offense to him if he looked long and hard at hundreds of
35 different businesses-- but this seems to be the very easy way out, "Let's do an
36 office space." She could easily see a bookstore and a café up there. It doesn't
37 need to be a Houlihan's, which frankly she never liked their food, so that might
38 have been a reason it didn't succeed. But there are a lot of creative solutions that
39 take into account the fact this is a really unique town with a historical community
40 space and if Mr. Henry really wants office space, she can point him to 20 other
41 buildings in Sausalito's zip code where you can find office space. The historic
42 district is small, the whole town is small, and this is a small area of history and she
43 would loved to have seen the application speak to that with some sort of creativity.
44 It doesn't have to be all tourist, all the time, the City certainly doesn't need another
45 t-shirt shop, but if that's what he wanted to do, that would be a tourist-serving
46 enterprise. She understands the tenant's perspective that she'd like more

1 residents to come into the downtown area, but frankly, when a business is good
2 it's going to attract people, whether you are aimed at tourists or you're aimed at
3 locals; if you are good, if you provide quality service and quality goods, people are
4 going to come from everywhere. Look at Sushi Ran, that's the best example. She
5 can't help but feel the application suffers from a lack of creativity given the area of
6 town. This is such a specific town with so many historic issues that the City has
7 labored over; the Commission has labored over, and she would like to have seen
8 a little more creativity other than what sort of seems to be the easy solution to
9 recouping some rent, which is "let's do an office space."

10
11 Commissioner Petersen said he would like to continue with Chair Kellman's
12 thoughts. He's gone back and forth on this application. He liked the idea of there
13 being offices downtown. He loves the fact that Don Olsen is down there. There are
14 still some people serving the local community down there; the City has pretty
15 much lost that whole sector of town as the residents' own place to live. He has this
16 weird vision that one day they'll get it back. So he likes the idea of there being
17 office space there that provides services, perhaps local services and so on, but not
18 in that building. It isn't just the district, it's that place. That place has got huge
19 windows onto a park, onto the water and it's at a very, very important corner. And
20 he can't imagine fluorescent lights in there at night time and Title 24, Part 6 is
21 going to mandate that they put fluorescent lights there. There'll be computer
22 monitors in the window when you're dining down below in the park. It's just an
23 awful specter at such a special moment in the town, a very special moment in the
24 town. And to let it not be open to the public seems a real shame. He likes the idea
25 of there being professional offices downtown, but not in this building. There are
26 plenty of other opportunities in town for that use. But this just seems to be a place
27 that is begging for social interaction. It really is the hub of downtown. And it doesn't
28 have to be tourist-serving; it could just be a unique solution that takes advantage of
29 the unique situation that's there. He does think offices are the easiest, quickest
30 way out; it's the least that you have to invest in the building to be able to rent it out.
31 There is office stock for that elsewhere; this is just a really special moment that
32 needs a much more site specific solution. That park is very important, as tiny as it
33 is, and that intersection is very important. He went back and forth on it; it's a hard
34 one for him.

35
36 Commissioner Bair said he has the same sort of conflict about this application. It
37 can fit into the findings, it helps some with diversity. But ultimately he thinks this is
38 something that once it's gone, it's gone. Once the City loses that view-- it's not
39 "ours," but it has been quasi public in the sense it's been a restaurant and the
40 public was allowed to enjoy those views. The hard part is, yeah, we have a lot of
41 views along there, they're outside, but a restaurant use or some other use that
42 was in the same arena that allowed the public to enjoy those views is ultimately
43 where he's finding himself landing. He really thinks the City will lose something
44 over time; restaurants do fail regularly, but it's just like Gaylord's there now.
45 They've been through Valhalla and others; there are restaurateurs to be found if
46 one goes to look for them. He's not saying that's the preferred usage here, it's just

1 a space that at least since Houlihan's was there, had a certain allure to the
2 community or attractiveness. Once it goes to this use, you're going to lose it to the
3 other uses for all time. Christophe's down there on the corner of Spring Street is
4 another example of a small good restaurant that went under and as he
5 understands it, it is now going to office use.

6
7 Vice Chair Keller said realistically they didn't go under. They closed because they
8 were required to put in an extensive amount of money to bring it up to ADA
9 standards. So let's be honest about that.

10
11 Commissioner Bossio said \$30,000, which definitely that extensive--

12
13 Commissioner Bair said that's one of the primary reasons Water Street went out of
14 business-- it was about the ADA issue and who was going to pay for it-- and it's
15 awful hard to get somebody new to come in if you're not going to pay for the ADA
16 improvements.

17
18 Commissioner Bossio said part of her argument is that use is market driven; that's
19 not to say the City has a bunch of people who want to put in office space and
20 they're just going to leave that unregulated. But for instance, Christophe's was
21 there for a long time; they had to come up with \$30,000 to make it ADA compliant.
22 The margins in restaurants, with the exception of maybe the Buckeye Group, are
23 very skinny and so people can't just come up with \$30,000 out of pocket. The
24 landlord wasn't willing to put the money in to make it ADA complaint and it
25 becomes an office use. What control do you have over that when no one else
26 wants to step up? This piece of property, for her, is more like a successful mixed
27 use such as Café Trieste and the law offices that are above Café Trieste. You
28 have a vibrant place where community involvement is intense below, like you do at
29 El Picola; it took a while for El Picola to take off, and now it's very vibrant there. It's
30 successful and people enjoy it and it draws people to that location. It's a frenzied
31 area already. At most times, seven days a week except for certain periods of the
32 year, there is too much energy at that location. And so she looks at the office
33 space as being a calming effect in an area where a vibrant use is already being
34 successful. It's really kind of a perfect situation because you have retail, you have
35 the restaurant use downstairs, it's always packed, and then there's upstairs. Why
36 hasn't the market picked this up? The City has some of the finest restaurateurs in
37 the world in the Bay Area; why haven't they been attracted to the space? It's been
38 sitting there for three years; there's plenty of people that know what to do with
39 restaurants in the Napa, Sonoma, San Francisco area. Why is it they haven't been
40 drawn to it? The applicant shouldn't have to even advertise for space that is as
41 desirable as that space is, if it's truly desirable for a restaurant location.

42
43 Chair Kellman said they keep talking about a restaurant, a restaurant. There are
44 thousands of other types of uses.

1 Commissioner Bossio asked: But would those uses be profitable for him? For
2 instance, if they did a café/bookstore, which sounds fantastic-- and the bookstore
3 across from Gaylord, Habitat, is looking for a bigger spot, it would be perfect for
4 Habitat. Why haven't they wandered in and figured out how to use it? A bookstore
5 cafe could never afford space like that. The fact that it's perfectly perched in the
6 middle of Paradise is going to prevent some very creative uses because those
7 creative uses will never be able to rise to the occasion. The fact that he said \$3 a
8 square foot-- she pays \$3 a square foot for her office space and it doesn't come
9 anywhere near what having an office in that building would offer. That the market
10 is that low for that area is surprising to her. Regarding music, No Name has music;
11 Patterson's used to, Café Divino, very successful every single night with music;
12 Café Trieste and so she sees a lot of successful music venues. She would love to
13 have seen this place become a blues café. But she just doesn't think that it would
14 be able to sustain itself. Everyone knows that place is there. Every business that
15 has ever thought about being a business knows that that location is available; why
16 haven't they moved in?

17
18 Commissioner Petersen said alternately, the real history of it is that it has been a
19 place for a restaurant. For a restaurant to survive for 18 years means it must be a
20 great place for a restaurant. It must be viable. We're talking about three years now;
21 that could just be more about personalities than about real estate.

22
23 Chair Kellman asked to hear from Vice Chair Keller.

24
25 Vice Chair Keller said he tends to agree with Commissioner Bossio. In a perfect,
26 ideal situation, sure, he'd love to see a restaurant there, but he's got to be realistic
27 about it. Could there be other resident-serving uses besides offices? Possibly, yes.
28 But the bottom line is that the applicant is before the Commission wanting to
29 convert the upstairs to office space. You've got this in San Francisco, where
30 you've got retail space on the lower floor and you've got either residential or
31 commercial up above. If he was the owner of this building, he'd probably be
32 applying for the same thing. In the end you want diversification of tenants in your
33 building so that you've got a continual, stable revenue base, not only for the owner
34 but also for the City. He hears what the other Commissioners are saying and you
35 can say that it's a tragedy that the public is not going to have access to this view,
36 but the bottom line is that it's been vacant for three years; nothing's going on with
37 the place. You can ask yourself why isn't someone like Yoshi or Larry Mindell
38 looking at that space? There's something about that space that doesn't attract
39 them. Granted, it's got a great view. The same thing with Ondine's. Why isn't
40 something there? There's a reason for it. He just thinks that maybe you can ask
41 yourself if there are too many restaurants in Sausalito. Maybe there are too many
42 art galleries in Sausalito. From his perspective, he'd rather see those places
43 occupied than be vacant just because the City idealistically would like to see
44 something that the residents define as more historical and as restaurant, etcetera.
45 He'd be very much in favor of seeing something there.

46

1 Chair Kellman said it sounds like the project is headed towards a denial. One of
2 the things the Commission is dealing with here is this isn't just any part of
3 Sausalito. This isn't the corner of Olive where Christophe's is, it is a very unique
4 part of Sausalito. So maybe the Commission could explore with the applicant a
5 real mixed use, which is come back to the Commission with two CUP applications
6 or maybe just one for half the space as an office space and the other half as
7 something that seems to fit more within what the other half of the Commission is
8 suggesting, to further that mixed use idea. Because she sees it heading towards a
9 no, but there might be room for creativity if the applicant is willing to explore that?

10
11 Commissioner Petersen said that particular place really, really deserves a creative
12 solution and not just the easiest way out.

13
14 Chair Kellman said what the Commission is struggling with is the fact that the
15 property is located within the historic district. The area has no end of history you
16 can draw from in being creative. She tends to not be one of those folks who looks
17 at commercial uses and says there's too many x or y's. She still thinks that if it's
18 good and it has a good product it does well. Go to Santa Fe and there's a gallery
19 on every corner and in every storefront. So, if it's good, it'll do well. If the applicant
20 is open to looking at something that maybe addresses the Commission's issue, the
21 Commission can entertain a continuance rather than a denial. But if it's a denial,
22 then the applicant's option would be to appeal it to the City Council.

23
24 (A member of the audience asked to speak.)

25
26 Chair Kellman said if he is a member of the applicant's team and has something
27 additional to say he may. But she doesn't want to continue to debate whether a
28 restaurant can be successful there. The point the Commission is making relates to
29 the historic nature of the downtown area and that specific area under the zoning
30 code. So she's waiting to hear if they want a continuance or a vote of denial.

31
32 The applicant asked for recess to discuss the options.

33
34 (Recess)

35
36 Richard Berling said the applicant appreciates the difficulty of the Commission's
37 decision; he grew up in Marin and he knows the importance of these wonderful
38 little nuggets of space that you find around Marin County. But just because
39 historically someone has sat in a restaurant and looked at a view and paid \$10,
40 \$20, \$50 for a meal, it's tough to impose that kind of requirement if when the
41 customer leaves the building, the owner is stuck with a losing proposition. This is a
42 very down economic time also, which also influences the situation. His firm is
43 always thinking about ways to have a creative solution; they're not attorneys, they
44 don't want to fight. There usually is a design solution for some of these problems,
45 but money is real too, and it's very difficult to hold on to these properties in this day
46 and age, particularly now when you hope to have a tenant, and hope to have

1 somebody call you and say, "Oh it would be great." If you threw out enough money
2 and creativity any spot can be turned into a successful project in the sense that a
3 lot of people would come and enjoy it. It might take you to the poorhouse but it
4 might be successful in the context that the Commission is talking about. Everyone
5 would love a bookstore, a coffee shop, a little blues in the background and a great
6 view of the City.

7
8 Chair Kellman asked Mr. Berling if his client wished to have a continuance or a
9 vote?

10
11 Mr. Berling said with all of that being said and understood, they'd like to get a
12 continuance and try to come up with something and see where it goes.

13
14 Chair Kellman said that's a good idea. They'll make it a date uncertain, when the
15 applicant's ready come back, just let staff know and ask to be put back on the
16 agenda. She appreciates the applicant taking the opportunity, because she
17 believes they can probably do some wonderful things there.

18
19 **Chair Kellman moved, seconded by Commissioner Petersen, to continue the**
20 **application to a date uncertain.**

21
22 **ROLL CALL**

23
24 **AYES: Petersen, Bair, Chair Kellman**

25 **NOES: Vice Chair Keller, Commissioner Bossio**

26
27 **Chair Kellman moved, seconded by Commissioner Petersen, to adjourn the**
28 **meeting. The next Planning Commission meeting is May 14, 2008.**

29
30 Respectfully submitted,

31
32 Tricia Cambron

33 Minutes Clerk

34
35 I:\CDD\Plan Comm\Minutes\2008\04-23-08-Approved.doc