

1
2 **SAUSALITO PLANNING COMMISSION**
3 **REGULAR MEETING**
4 **Wednesday, June 11, 2008**
5 **APPROVED MINUTES**
6

7 At 6:30 p.m., Vice Chair Keller convened the June 11, 2008 Regular Meeting of
8 the Sausalito Planning Commission in the Council Chambers of City Hall at 420
9 Litho Street.

10
11 **ROLL CALL**

12
13 **PRESENT: Commissioners Bair, Petersen**
14 **Vice Chair Keller**

15
16 **HISTORIC LANDMARKS BOARD ROLL CALL**

17
18 **PRESENT: Boardmembers Weisberger, Theodores, and Monsef;**
19 **Board Chair Nichols**

20
21 **APPROVAL OF AGENDA**

22
23 **Vice Chair Keller moved, seconded by Commissioner Bair, to approve the**
24 **agenda as submitted.**

25
26 **ROLL CALL**

27
28 **AYES: Commissioners Petersen, Bair;**
29 **Vice Chair Keller**

30 **NOES: None.**

31
32 **DIRECTOR'S REPORT**

33
34 Sierra Russell noted that at the City Council meeting last night they reviewed the
35 proposal to put solar panels on City Hall and authorized the committee to
36 continue drafting an agreement with the selected provider for installation of the
37 solar panels.

38
39 **PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

40
41 **Barry Butler** lives at 927 Bridgeway. He spoke related to the 921, 923
42 Bridgeway project approved at the previous Planning Commission meeting.
43 There were elements of that approval process that went awry and he wants to
44 put on the record what he thinks were the problems in that meeting. In what was
45 only the first full Planning Commission review of this large scale and very high
46 profile project, a decision was rendered on May 28, 2008, on a proposal that

1 supposedly involved heightened review, a matter which was of some debate
2 among the Commissioners that particular night. Why was a decision rendered in
3 what essentially constituted a fast track ruling in spite of a very real debate, it
4 might even have been called a cat fight at a point in time, between two disparate
5 points of view on the Planning Commission? Good question.
6

7 The fact that a decision was rendered with a very limited amount of public review
8 on the project was ultimately based on the fact that two of the Planning
9 Commissioners were supposedly coming to the end of their term and the May 28
10 meeting would their last. He thought Mr. Petersen was one of those, but
11 apparently that's not the case. Those were in fact the two Planning
12 Commissioners who were clearly in favor of the project. Somehow that proved to
13 be the basis for a motion for approval, a motion he might add was an approval
14 when a codicil was added calling for a final decision to be made at an
15 administrative level meeting by the newly appointed director of Community
16 Development.
17

18 So, the Planning Commission essentially passed on their authority to decisively
19 rule on this proposal in a public forum and sent it off for administrative review and
20 resolution beyond the public eye. In doing so they effectively eliminated any
21 leverage whatsoever held by those neighbors in opposition to negotiate any
22 meaningful concessions from the property developer. He would strongly suggest
23 that this is not the way the review process is supposed to work.
24

25 Finally, an additional comment related to the administrative process at planning
26 department level. Here he would note that his comments are not directed at Mr.
27 Graves, the new director of Community Development, who had the misfortune of
28 finding this project on the docket as he assumed the reins. He was reasoned in
29 his approach in the follow up. Rather the comments are directed to those that
30 preceded him and held responsibility leading up to the review meeting. Those
31 opposing aspects of this project were very disappointed by the role played by the
32 planning department in the preparation and presentation of this proposal.
33 Headed up by an outside planner who clearly embraced the expansive
34 development of this land parcel and gave minimal import to the opposing views
35 of neighbors, he thinks that this is project is a model of how projects of this kind
36 should not be handled in the future.
37

38 Outreach to neighbors has always been a key aspect of the planning review
39 process in Sausalito. Needless to say if the planning person responsible for a
40 project does not see outreach as an important part of their responsibility then by
41 definition the planning scales are heavily weighted toward the developer side. In
42 his judgment, that was clearly the case for this project.
43

44 In closing, based on this precedent, he has no doubt that the Planning
45 Commission will be seeing a number of other full bore development projects
46 along the Bridgeway R-3 corridor. Why not? One of the neighbors in this project

1 didn't show up at the meeting and express an opinion. That neighbor is the next
2 door neighbor to 919. Mr. Butler sincerely hopes the outreach and public review
3 process will be up to speed when those roll in the door.
4

5 **Clare Blotter** [ph?] lives at 111 South Street. She is expressing her concerns
6 over what she observed at the last two City planning meetings. New housing
7 projects are being approved that densely crowd out open garden areas or land
8 covered with trees, areas which make Sausalito a famous tourist attraction and a
9 beautiful place to live. Next door to her apartment is a backyard with 18 trees,
10 some of which are heritage trees, which will soon be chain-sawed down. They
11 are habitat for squirrels, blue jays and migratory song birds. Where there is now
12 a small one bedroom house there will soon be two, three-to-four bedroom single
13 family houses crowding the hillside, the tree-covered hill will never be the same.
14

15 She drove around the bend of the road yesterday and imagined her
16 neighborhood the gateway to Sausalito, which will soon resemble Nob Hill at the
17 rate that projects are being approved without consideration of long term
18 repercussions and without being guided to fruition with sufficient attention to
19 ecological and aesthetic concerns. Now more than ever people have the
20 responsibility to protect the environment for future generations, not just
21 somewhere far away in the Amazon rainforest, but here in our own backyards, to
22 walk lightly on the earth for our short time here. Destroying a forested hillside to
23 build two major buildings from one side yard to the next is not walking lightly but
24 stomping out most of the green space.
25

26 Some of the Planning Commissioners last week were sincerely concerned with
27 audience comments on this issue, but one planner said that if people in Sausalito
28 want the kind of open space with trees and while life she is describing, they need
29 to move to the country. She hopes not. She hopes that the people of Sausalito
30 want City planning that is just that, thoughtful responsible, forward looking
31 guidance with monitoring and preservation of wildlife, beauty and nature, where
32 birds and plants and wilderness are valued and can be enjoyed for generations
33 by anyone who walks down the street rather than being destroyed by those who
34 can afford to bulldoze land, to build the largest possible structures, which will
35 bring in the highest possible rents. She asked the Commissioners to view her
36 DVD, "Saving the Songbirds," which is available in the Sausalito library. It
37 portrays how the songbird population suffers from the kind of wildlife destruction
38 that will occur perhaps soon in your neighborhood, too.
39

40 Vice Chair Keller thanked the speakers and explained that any project approved
41 or denied that evening will need to be approved or denied by a full Planning
42 Commission since there are only three Commissioners present. All applicants
43 and neighbors should be aware of the fact that any vote will have to be either 3-0
44 in favor or 3-0 against for approval or denial.
45

46 Commissioner Bair asked if 2-1 against would be sufficient for a denial?

1
2 Community Development Director Jeremy Graves said the way the municipal
3 code reads is that any action of the Commission has to be taken by a majority of
4 the Commissioner members.

5
6 Commissioner Bair asked if there is a motion and there is a 2-1 vote--

7
8 Mr. Graves said that would be a "no action" vote.

9
10 Commissioner Bair asked would that be a denial?

11
12 Mr. Graves said no, in this case it's "no action."

13
14 Commissioner Bair said typically no action means a denial.

15
16 Mr. Graves said he agrees, but in this case there is no ability for a fully staffed
17 Commission to take action on an item. So his advice for applicants if they are
18 concerned about a split vote would be to request a continuance until three
19 Commissioners are available to act on it one way or the other.

20
21 Ms. Russell said the same doesn't hold true for the Historic Landmarks Board, for
22 the HLB a majority vote is 2-1; the Municipal Code calls out that the Planning
23 Commission has to have a minimum of a 3-0 vote to take action.

24
25 **NEW PUBLIC HEARINGS**

26 **1. 715 BRIDGEWAY BOULEVARD (DR 08-010/APN 065-071-25)**
27 **Erin Uesugi (Applicant) /Wells Fargo Bank (Owner)**
28

29 **The applicant, Erin Uesugi, on behalf of the property owner Wells Fargo**
30 **Bank requests Planning Commission and Historic Landmarks Board**
31 **approval of a Design Review Permit to replace the entry doors previously**
32 **located at the building entrance with a new single-wide door for the**
33 **structure located at 715 Bridgeway and within the Downtown Historic**
34 **District.**

35 **Staff Report by Associate Planner Sierra Russell**
36

37 Ms. Russell reported that the applicant is requesting Planning Commission and
38 HLB approval of a design review permit to install a new Americans with Disabilities
39 Act (ADA) accessible single wide door with a single sidelight in place of the
40 structure's original doublewide doors. The building is located in the downtown
41 historic district and therefore the application must be heard jointly by the HLB and
42 Planning Commission. The site is across the street from Vino del Mar Park and on
43 the corner of Excelsior Lane. The Wells Fargo Bank was constructed in 1924 and
44 designed by H.H. Miller; according to historical records the building has remained

1 unchanged since that time with the exception of an installation of an automatic
2 teller. The original doors at the entrance were replaced with new aluminum doors
3 with two sidelights and staff notified the owners that that change required a design
4 review approval; the owner submitted an application for new doors that would be
5 more historic to the original doors.

6
7 This item has been discussed by the HLB and the board expressed the need to
8 restore the doors to their original form. The initial review of the proposed door and
9 conformance to the historic design raised the question of why the doors weren't
10 motorized. The applicant explained the motorized equipment would impact the
11 façade. The HLB said they could support the approval of the new door with the
12 condition that the original doors be maintained on site. The HLB suggested
13 refinements to the plan for the new doors. The applicant then submitted plans
14 responding to the HLB comments and those plans are in the packet. The HLB also
15 reviewed repainting of the building, the colors chosen will match the existing
16 colors. A materials board is available.

17
18 Ms. Russell displayed a series of slides of the floor plan and trim on the door. She
19 clarified that the proposal consists of installing a new single side door and a new
20 single side light, as opposed to the symmetrical sidelights referred to in the staff
21 report. The ADA requires a minimum 24-inch clearance. The door will use the
22 same framing and dimensions of the existing doublewide doors; the framing will be
23 done in charcoal gray painted metal to match the trim on the building. A new base
24 plate and door pull on the door will replicate what's on the original doors. The
25 applicant has submitted specific dimensions of the framing, the door pulls and
26 hardware as requested by the HLB.

27
28 **Presentation by Applicant/Architect Erin Uesugi**

29 Ms. Uesugi said the Wells Fargo building was built in 1924 and has remained
30 virtually untouched since. Wear and tear, new building codes and modern
31 security requirements have prompted the proposed changes. She recognizes the
32 historical importance of the building and appreciated the HLB's comments. They
33 have carefully measured all the existing details of the door and recreated those
34 on the proposed door. Because of the width of the grillwork, which is the most
35 beautiful feature of the entry, they didn't want to change that width and that has
36 driven the proposed new door. They have tried to recreate all the historic details
37 in new materials that will comply with ADA, allow the installation of security
38 features and maintain the historic façade.

39 Commissioner Petersen referred back to the slide of the floor plan of the entry
40 way. He thought this was proposed to be symmetric, as per the staff report, so he
41 didn't do the research he would have if he'd known it was not symmetrical. The
42 24-inch strike side clearance may be able to be measured from one column to
43 the next and necessarily the two mullions there that are 64 inches apart. Does
44 the applicant know if that's correct?

1 Ms. Uesugi said her firm has worked on making buildings ADA- compliant across
2 the state and she's pretty sure the proposed design conforms to the
3 requirements.

4 Commissioner Petersen said there are questions that come up as to what is
5 "strike side clearance." It isn't necessarily a sidelight. It can also be the space
6 between the door edge and some protrusion a certain distance from the wall. He
7 doesn't know what that number is.

8 Ms. Uesugi said it's about half an inch. It's very, very narrow.

9 Commissioner Petersen said that doesn't make any sense for it to be that small,
10 for ADA.

11 Ms. Uesugi said their initial proposal was for a more symmetrical design, to have
12 the single light flanked by two equally spaced sidelights. And upon further
13 investigation with the new code, that 24-inch on exterior doors, on the full side of
14 the door, on the strike side, will not allow for what is basically that base of the
15 column to come out and it impacts it by 6 1/4 inches. Perhaps the planning
16 department and building department would want to allow some kind of variance,
17 because certainly the symmetrical design is more attractive.

18 Commissioner Petersen said the building is very symmetric. If Ms. Uesugi is
19 satisfied that there's no way around that requirement, he can accept it.

20 Ms. Uesugi said they did specifically look at that and didn't find a loophole that
21 would allow it. Because it is a historic building, there could be certain local
22 provisions that would perhaps allow it.

23 Ms. Russell said there are provisions in the historic building code that allows
24 certain exemptions. She can look into that.

25 Commissioner Petersen said that would be great. He didn't look into it because
26 the staff report indicated that it would be symmetrical. Even if they approve the
27 application that night, perhaps staff could investigate whether there is anyway to
28 put the door in the center.

29 Ms. Russell said staff will look into that.

30 **Public Comment**

31 None.

32 **HLB Discussion**

1 Mike Monsef said he recalls when he was involved in a project downtown that the
2 door can go to 30 inches and he agrees with Commissioner Petersen that they
3 should try to have the symmetrical door. It's going to be very, very odd to see the
4 door as proposed now. That's not what the board approved before.

5 Tom Theodores agreed; he was surprised to see the asymmetry. They should
6 explore any exemptions in the City historic guidelines or the City's building code
7 rules. He's not prepared to approve it until they further explore making it
8 symmetrical.

9 Vicky Nichols agreed with Mr. Theodores and Mr. Monsef. The Board did not see
10 this asymmetrical iteration of the plan. It sounds like the architect has run into
11 some perceived code problems. She would like to see the door in the middle; she
12 agrees that the most striking feature is the grillwork.

13 Commissioner Petersen said there might be two options. The intrusion of conduit
14 and the motor box for the power door is one problem, is that worse than the
15 offset door or better? That's the debate that probably needs to happen. The other
16 thing, too, is if there is anything with historic preservation that allows some way to
17 hold it in the center, that would great. He doesn't think a 30 inch door will give
18 you enough room; they probably need some other kind of exception.

19 Ms. Nichols said part of the discussion was how San Francisco dealt with this
20 requirement in historic buildings and they found San Francisco often used a side
21 door to provide ADA access. They can't do that here.

22 **Planning Commission Discussion**

23 Commissioner Bair said he got the impression from the applicant that she needs
24 a local approach to this, but he's not sure if this is something the plan checker is
25 saying they need to do to comply or is this something the applicant designed and
26 now the HLB and Commission are bringing it back to the center.

27 Ms. Russell said this is the design the applicant has proposed based on her
28 interpretation of the California building code. She thinks it is the building
29 inspector that has to approve certain exemptions for the state historic bulding
30 code. There are only certain instances where it's permitted.

31 Commissioner Bair asked if the City has any idea if the building inspector will go
32 along with the center design if possible. He is more in favor of the center.

33 Vice Chair Keller said it sounds like they are all in agreement the preference
34 would be to have it in the center. He would also assume that this is a requirement
35 to have the entrance be ADA compliant and the City may have to live with the
36 fact that the law states that there has to be a 24-inch distance to the strike. He
37 would suggest continuing this for more investigation into what can be done.

1 **Continued Public Comment**

2 Jonathan Leone said the zoning ordinance says deviations from the building
3 code, Title 8, will be allowed when construction is in conformance with the state
4 of California historic building code. So it's separate from the normal state building
5 code. So that's probably where they need to look to find the exception.

6 **Further Commission Discussion**

7 Commissioner Petersen pointed out the architect is responding to a federal law
8 which has nothing to do with the City. But he understands Mr. Leone's point.

9 Vice Chair Keller said everyone realizes that the door has to be changed, it has
10 to be made ADA compliant. The HLB and the Planning Commission are on the
11 same page that they'd like to see it centered and if that's possible, if they do the
12 research and they can come up with a way to do that, everybody would be
13 happier.

14 Vice Chair Keller added that another issue that hasn't been mentioned is that
15 there was some comment from HLB about what's going to happen with the
16 original doors. The Wells Fargo manager thought they were going to go to the
17 Wells Fargo museum in the City. Vice Chair Keller said he would like to see
18 those doors remain and some artistic way devised to display them within the
19 lobby of the bank for residents of Sausalito to enjoy.

20 Ms. Nichols said the City has written Wells Fargo a letter and asked them to
21 store the doors on site. At one point they offered them to the Sausalito Historical
22 Society but there's not really room there to store them. If they are maintained on
23 site, if this use ever changes, it may not require the security that the bank does,
24 and at that point they could be reinstalled at the site.

25 Commissioner Petersen said any new use, except a residence, would have to be
26 ADA compliant. They are really hard to open anyway.

27 Mr. Monsef noted managers change at Wells Fargo often; he recommends that
28 the HLB look at the historic documentation. If the building is historic, there should
29 be some provision for retaining the doors.

30 Ms. Uesugi said the jurisdiction of the code will require the status of the building
31 be recognized either locally, by the state or federally, as of historic significance.

32 Vice Chair Keller said he thinks the best course of action is to continue this and
33 direct the architect and staff to research as to whether or not the door can be
34 centered. Also, it would be interesting to see some schematic as to exactly what
35 the conduit and door mechanism would look like on a drawing, if they went to an
36 automatic door opening.

1 Commissioner Bair said if there's an interest in keeping these doors in town, is
2 there any interior use that they could be put to so their historic value could be
3 observed and preserved without being used as doors.

4 Mr. Graves noted that the Commission and board could approve the project
5 subject to the condition that if the building inspector is able to make a
6 determination based on the code, the door will be centered. If the building official
7 cannot make that determination, then the plans would be approved as presented.
8 It is the building official's responsibility to make that determination.

9 Vice Chair Keller asked if that would be Mr. Graves?

10 Mr. Graves said yes, or under his supervision.

11 Vice Chair Keller said should they also think about including a condition requiring
12 that the applicant bring back a schematic to see what a conduit and automatic
13 opening for the original doors would look like?

14 Mr. Graves said in that instance, he would suggest the entire matter come back
15 to the Commission.

16 Commissioner Bair said he's more comfortable with it coming back to the
17 Commission and Board rather than sending it off to staff with conditions.

18 Mr. Graves said he understands the direction is asking the applicant to go back
19 and talk with the City staff regarding the applicability of the state historic building
20 code in this particular situation. Staff will look at the particulars of the Wells Fargo
21 Bank. It certainly is in the downtown historic district. Is that enough basis to
22 determine that the historic building code applies to the structure or does the
23 structure also have to be on a locally designated landmark list? If after those two
24 evaluations it is determined that the state historic building code does apply to this
25 building, staff will make the determination that the applicant should see if the
26 door can be centered. And that would just be a report back to the Commission
27 and to the HLB that the door can be in the middle. But if that good news comes
28 back, they don't really need to come back to the Commission and the HLB level.

29 Commissioner Bair suggested they do it as a consent calendar item. It's really
30 not going to be controversial.

31 Mr. Graves said if the Commission wants to bring it back, he would recommend
32 bringing it back at a public hearing because people will want to be able to
33 comment on it.

34 Commissioner Bair said any member of the public can pull an item off the
35 consent calendar and comment.

1 Mr. Graves said any member of the Commission can pull it off.

2 Commissioner Bair said that's good to hear, that hasn't been the case before. So
3 if that's the new position, and he supports that position, but the way it has been is
4 that any member of the public can ask for something to be taken off the consent
5 calendar.

6 Vice Chair Keller asked how HLB feels about making a motion to approve that
7 will come back on the Consent Calendar. Or do they want to see it come back as
8 a continuance?

9 Commissioner Petersen said there's one other consideration, that is if they can't
10 get beyond the ADA as applied in the generic sense for the door and they have
11 to have an asymmetrical design, then they can fall back to whether they want to
12 consider a motorized operation for the existing doors and is that going to be a
13 good thing or bad thing. So it's dependent on whether or not they see the
14 asymmetry or the motor as being the worse thing.

15 Mr. Monsef said he thinks there is a solution to this one. It doesn't have to be a
16 motor. There are exceptions. You could go down to City Hall in San Francisco
17 and see some of those doors that are not motorized.

18 Commissioner Petersen said he's just saying if it turns out they can't get the door
19 symmetrically placed, what do they do next? Do they accept the asymmetry or
20 look at the option of keeping the old doors and motorizing them?

21 HLB Boardmember Weisberger said he would be willing to vote for a conditional
22 approval if they were able to center the doors; if not, they need a public hearing.
23 He'd like to review the reasons why and all the alternatives. So a conditional
24 approval but only if it can be centered, otherwise, it comes back to the
25 Commission and the HLB.

26 Ms. Russell said it sounds like the Commission and HLB would like to continue
27 the item with direction to staff to look into whether the doors can be centered. If
28 they can be centered, then staff would return with a draft resolution of approval
29 on the Consent Calendar. If they cannot be centered, then they would return with
30 a continued public hearing to discuss the option of the motorized doors. Is that
31 correct?

32 Commissioner Petersen said that's when the Commission and board would
33 weigh the difference between the asymmetry versus a motor, yes.

34 **Motion by HLB**

35 Boardmember Weisberger moved, seconded by Boardmember Monsef, to
36 approve the plans as submitted provided that the applicant is able to move the

1 door to a center place with the side panels equidistance from the door, and with
2 the same materials. If there are any deviations other than moving it to the center,
3 that the matter come back to the board for further hearing.

4 [There was a discussion about the language of the motion.]

5 Mr. Graves suggested a motion to continue with direction to staff and the
6 applicant to explore the applicability of the State Historic Building Code.

7 Boardmember Theodores moved, seconded by Boardchair Nichols, to continue
8 the matter with direction to staff and the applicant to explore all possible ways to
9 have the door centered.

10 **ROLL CALL**

11 **Ayes: Boardmembers Monsef, Theodores and Weisberger;**
12 **Chair Nichols**

13 **Noes: None.**

14 **Motion by Planning Commission**

15 **Commissioner Bair moved, seconded by Commissioner Petersen, to**
16 **continue the matter with direction to staff and the applicant to explore all**
17 **possible ways to have the door centered.**

18 ROLL CALL

19 Ayes: Commissioners Petersen and Bair; Vice Chair Keller

20 Noes: None.

21 *Historic Landmarks Board adjourned.*

22 *[Recess]*

23 **2. 1907 BRIDGEWAY BOULEVARD (CUP/EA 07-008/APN 064-141-05)**
24 **Chirayu Patel (Applicant) /Gail Johnson (Property Owner)**

25
26 **The applicant, Chirayu Patel, on behalf of property owner Gail Johnson**
27 **requests Planning Commission approval of a Conditional Use Permit and**
28 **Encroachment Agreement to convert a portion of an existing commercial**
29 **retail use at 1907 Bridgeway into a formula retail restaurant establishment.**
30

31

1 **Staff Report by Associate City Planner Brent Schroeder**

2
3 Mr. Schroeder reported that this application requests Planning Commission
4 approval of a conditional use permit and encroachment agreement to convert a
5 portion of an existing retail use at 1907 Bridgeway into a formula retail restaurant
6 establishment known as Subway.
7

8 The zoning for the area is commercial neighborhood, CN-1. The subject property
9 is a 12,000 square foot parcel located on the west side of Bridgeway. The existing
10 commercial building currently contains the 7-11, Bridgeway cleaners and the
11 vacant unit which is the subject of the application.
12

13 The project has been reviewed by the City Engineer who required the installation
14 of trash collection plans and ADA updates. The project proposes 16 square feet of
15 illuminated signage with letter heights similar to the existing businesses (2 feet);
16 there is a sample board with the proposed colors and materials. The business
17 would cater to residents and the public in the Caledonia, Bridgeway corridor and
18 the Marinship. The restaurant will serve salads, sandwiches and breakfast items
19 from the hours of 8 a.m. to 9 p.m. Staff has concluded that there is adequate
20 parking with the approval of an encroachment agreement to use existing spaces in
21 the public right of way adjacent to the 7-11, that have been historically used for
22 parking for businesses.
23

24 The key consideration is the formula retail findings that must be made. The
25 purpose of the standards is to regulate the location and operation of formula retail
26 establishments in order to maintain the City's unique village character, to add
27 diversity and vitality to the City's commercial districts and to add to the quality of
28 life for Sausalito residents. The applicant intends to make the case that these
29 findings can be made. Examples of these establishments currently within the City
30 are the 7-11, the Shell, FedEx, Kinko's, Starbucks, possibly Mollie Stone's, and an
31 art gallery in the downtown historic district. No neighbors attended the outreach
32 meeting held by the applicant in April. Staff has received two letters in support and
33 five letters in opposition to the project. He has received two phone calls in support
34 of the project.
35

36 Staff is asking for direction from the Commission after which staff will prepare a
37 draft resolution for consideration of the Commission at its next meeting.
38

39 Vice Chair Keller asked how long the place has been vacant?
40

41 Mr. Schroeder said he doesn't know; the previous use was a beauty salon that had
42 been there for approximately five years.
43
44

1 **Presentation by Applicant Architect Robert Van Halum**

2
3 Mr. Halum focused on the findings for the formula retail. The suitability of the
4 space as a restaurant is evident.

5
6 **Finding 1: The use will be compatible with surrounding uses and will be**
7 **designed in a non-obtrusive manner to preserve the community's distinctive**
8 **character and ambiance.** The proposed Subway fits well into the existing setting,
9 offering choices to the workers in the area. All operations will take place within the
10 building. The location is concealed by other buildings and dense shrubs.

11
12 **Finding 2: The formula retail establishment will not result in an over**
13 **concentration of formula retail establishments in its immediate vicinity or**
14 **the City as a whole.** He thought there was only three formula retail
15 establishments in this area, but there may be more, including Kinko's and
16 Starbucks. This does not represent an over concentration of formula retail.
17 Locating the Subway next to the 7-11 minimizes the impact of another formula
18 retail and still provides benefits for the area.

19
20 **Finding 3: The formula retail establishment will provide diversity and variety**
21 **to assure a balanced mix of commercial uses to serve both residents and**
22 **visitor populations.** Subway provides another type of meal; the ability to quickly
23 get a healthy meal on lunchbreak is a useful service that might not be provided
24 elsewhere. The Subway will also provide a low cost and healthy meal to families
25 visiting the Bay Model or beach who might not be able to afford the other local
26 restaurants.

27
28 **Finding 4: The formula retail establishment will contribute to an appropriate**
29 **balance of local, regional or national based businesses in the community.**
30 There is an abundance of small local restaurants in the area. And that is
31 appropriate considering the tourist-based economy. The Subway business is
32 national, as are some of the other businesses in that area, but since it is an
33 individually owned franchise operation, it will still have a local and regional
34 presence.

35
36 **Finding 5: The formula retail establishment will be mutually beneficial to and**
37 **enhance the health of surrounding uses within the district.** The Subway will
38 provide a healthy and low cost meal option to nearby workers and artists and to
39 visitors to that part of town. The potential time savings will translate to increase
40 productivity and thus enhance the profitability of local business. The Subway will
41 provide three full time and one to three part-time jobs to local residents and the
42 business taxes on it will help support the City. It is likely that Subway patrons will
43 still go to the other nearby restaurants for the sake of variety. An additional benefit
44 would be a reduction of traffic into and parking in the downtown area.

1 Finding 6: **The formula retail establishment will contribute to an appropriate**
2 **balance of small, medium and large sized businesses in the community.** The
3 Subway will add another small business, which is appropriate in this case.

4
5 Finding 7: **The proposed use together with design improvement is consistent**
6 **with unique character of Sausalito and would preserve the distinctive visual**
7 **appearance and shopping experience of Sausalito for its residents and**
8 **visitors.** Subway preserves the character, appearance and shopping experience
9 of Sausalito basically by isolated location. As mentioned previously, the location is
10 visually screened by the surrounding area. The Subway sign will be the only
11 exterior sign on the building, this will be low key and illuminated by miniature
12 spotlights. Existing large spotlights will be removed; the unsightly trash enclosure
13 currently on site will be replaced with a new wooden trellis structure and site
14 improvements will be made to provide accessibility. The interior of the store could
15 be provided with historic photos of Sausalito to provide some local ambiance
16 although there wouldn't be any substantial changes to the exterior of the building.

17
18 Vice Chair Keller asked if he knows how long that space has been vacant?

19
20 Gail Johnson is the property manager. The building was built in 1967 as a
21 convenience center. There was a cleaners in the space for nearly 35 years, and
22 then the hair salon came in for five years. It's been vacant for at least 18 months
23 minimum. They were thrilled when Subway came to them. It seems like the perfect
24 space. She was unaware of the formula retail establishment guidelines. They are
25 trying to get the space leased, it will be low key, it will help to maintain the outside,
26 it will help just to have that space filled instead of vacant, which causes a little bit
27 of a vagrant problem in the area. They have plans to improve the outside
28 appearance. They've been working for a year trying to get this through.

29 30 **Public Comment**

31
32 **Evan Bennett** and his wife own the property at 513-A Easterby, which sits above
33 the vacant lot that's directly off of the 7-11 on the south side of Easterby. He's an
34 attorney with Fenwick and West and he also owns a company that operates the
35 food concessions inside the Exploratorium science museum and he's owned
36 several other food businesses like this in the past. So, while he applauds Mr.
37 Patel's entrepreneurial spirit and he can appreciate some of the hassles he's had
38 to go through in getting something like this approved, at the same time he
39 understands the impact that an establishment like this can have on the community.
40 He would encourage the Commission to reject this application for three reasons:

- 41
42 1. The traffic issue that comes with this application.
43 2. The trash issue.
44 3. The fact that this is a franchise.

1 All these aspects will have an affect on the character, ambiance and quality of life
2 in the area.

3
4 Regarding traffic, right now a lot of traffic comes from north to south on Bridgeway
5 and comes through the right of way into that area already. It's a public right of right
6 and people that live on Easterby and up above come through there and turn to the
7 right. The fact that the right of way is on a slope and traffic is entering from both
8 sides and the fact that the 7-11 is already a quick stop place where people are
9 coming in and out creates a lot of confusion already as people drive by. By adding
10 another quick stop type place with a lot of traffic entering and exiting is only going
11 to exacerbate this problem. The fact that it is on the north end of the building hides
12 it behind the two-story building on the north, and traffic is coming at very high
13 speed. If there are cars parked in front of this proposed restaurant, the traffic is
14 going to be backing up and it's going to create a lot of traffic issues.

15
16 Regarding trash, he was encouraged to hear they're going to change the garbage
17 area; right now it is a public nuisance. There's already a high volume of trash that
18 comes with the 7-11. As somebody who owns food businesses, he can tell the
19 Commission, the Subway is going to create a lot of trash and exacerbate the
20 problem.

21
22 Regarding the issue of formula retail establishments, there are no formula
23 restaurants yet in Sausalito, with the exception of Starbucks, which has a different
24 ambiance. If the Commission approves this use, there's nothing to prevent an
25 avalanche of formula retail establishments of this type, that is, a national, mega
26 restaurant-franchise type establishment. He doesn't believe the fact that the 7-11
27 is already there minimizes that impact.

28 29 **Rebuttal by Applicant's Architect**

30
31 Mr. Van Halum said the applicant has noted the problem with the trash situation,
32 and as the property manager said, they are installing a new trash enclosure that
33 will be more secure than what is there now. As far as the slippery slope argument,
34 in this case the Subway works very well there and each space should be judged
35 on its own merit rather than what might happen down the road.

36
37 Vice Chair Keller asked staff about the encroachment issue and the parking. Has
38 anybody looked at the traffic situation there? He knows there are quite a few cars
39 that go through there and use it as a thoroughfare and there are times when the
40 parking is full.

41
42 Mr. Schroeder said the City Engineer has reviewed the project and had no issues
43 about increased traffic there, that he expressed.

1 **Further Public Comment**

2
3 **Vicky Nichols** lives at 117 Caledonia. She agreed with the points made by Mr.
4 Bennett.

5
6 **Commission Discussion**

7
8 Commissioner Bair said he walks by this area every day. If there is a place that
9 Subway would be appropriate in this town, that would be the place. The formula
10 retail issue is out of the barn with the 7-11 there. He said he doesn't have an issue
11 with the traffic but if people are using the lot as a cut-through rather than going to
12 the signal, that should be addressed but probably in a different forum. The trash
13 issue should be addressed by the owners or the landlords of the property. With
14 respect to whether this would be the first restaurant franchise, they've mentioned
15 Trieste and Gaylord's. He doesn't see the Subway as similar to the BevMo that
16 was proposed previously that would have had some really large impacts. He
17 doesn't see that as a major sticking point for him.

18
19 Commissioner Petersen said there are a lot of things about the project that he
20 didn't really have a big problem with in terms of the particular conditional use, i.e.,
21 a small place that has sandwiches and as Bruce Huff says in his letter, "value
22 driven healthy products." He would be fine with the conditional use permit and he
23 would be fine with the parking. It can be difficult to park there when 7-11's
24 unloading a truck. But he definitely has difficulty with the formula retail and he only
25 does so in instances where local businesses could easily feel that void. If they're
26 talking about a gas station, there's nobody that's going to do that. Or FedEx
27 Kinko's, there's nobody locally who's going to do something like that. But a
28 sandwich shop. That's something that could happen locally. It would be great to
29 see someone go in there that shops at the farmer's market and buys stuff locally.
30 You can bet that's not what's going to happen here with the Subway. He agrees
31 with Commissioner Bair that this is probably the most benign place for it to go
32 because it's kind of hidden, but ultimately it makes that property into a strip mall. A
33 bona fide real-live Scottsdale strip mall. He's very, very uncomfortable with it; even
34 though it's very small, it makes an area of town that instantly becomes the part of
35 town that you just speed by and don't even want to look at. So he has a tough time
36 making the formula retail findings. Everything else checks out, but he just can't
37 make the formula retail findings.

38
39 Vice Chair Keller said he agrees with most of the comments from his fellow
40 Commissioners. He personally still wrestles with the issue of formula retail in
41 Sausalito. This is a difficult property location wise. 7-11 does get a fair amount of
42 traffic, the laundry mat attracts a different kind of crowd. He can imagine the
43 property owner has had a very difficult time finding a tenant for that space. If he
44 was to open a sandwich shop he doesn't know if he would choose this as his
45 location. Subway, because of its name, will probably attract foot traffic and people
46 will come across the street from the industrial park area and use it because it's

1 convenient. It just goes back to the whole issue of formula retail. He agrees with
2 Commissioner Petersen that if a Subway goes in there it really is a strip mall. And
3 that may work well in Novato or somewhere else, but for people who live in
4 Sausalito, it's a problem and he's got an issue with it. He respects the applicant for
5 what they're trying to do, he thinks it would be beneficial for the City from a
6 revenue standpoint; he thinks the business would do relatively well. He's not so
7 concerned about the parking and traffic although they do need to address the right
8 of way there in terms of people using that as a thoroughfare. The trash issue is a
9 responsibility of the owner. If he got close to approving this, it would have to be
10 conditioned on cleaning up the whole area. That said, it doesn't look as if the
11 Commission is in the position to give the applicant a 3-0 vote. The applicant may
12 request a vote, which it looks like would be a no vote, or the applicant can just ask
13 for a continuance. This is a much bigger issue that the City is going to have to
14 address and really define what is meant by formula retail and what's the definition
15 of "concentration." Are you going to allow "x" number of formula retails within two
16 or three blocks? Here we've got two kind of basically next to each other. It's kind of
17 creepy. There have been, over the last 15 years, Planning Commissions who have
18 allowed formula retail to come in here for whatever reason. There was quite a few
19 of them. And when you look downtown, there's a problem that he thinks is a big
20 problem with all these art galleries; they are an eyesore and they're all formula
21 retail, basically. Fingerhut, Hanson's, they're all over the place. So there's an over
22 concentration of that downtown and the City will probably continue to deal with that
23 because businesses think that's what attracts tourists and that's what tourists
24 spend their money on. In principle, he doesn't have a problem with a sandwich
25 store going in there, he doesn't have a problem with Subway specifically; it's a
26 good product. He just thinks it's a much bigger issue, including what constitutes
27 over concentration or under concentration. If the Commission approves this
28 because it thinks it's not overly concentrated in the space, are they setting a
29 precedent down the line for the next applicant that comes along? And that will
30 happen because they're all trying to move into Sausalito in some form or fashion.
31 At this juncture, the applicant is not going to get a 3-0 vote; he would suggest they
32 ask for a continuance and come back when there's a full Commission. They can
33 also have a vote and if it is a no vote they can appeal it to City Council. At some
34 point the City Council is going to have to address the whole code issue with regard
35 to formula retail and what's concentration and what's not concentration. His
36 recommendation would be to continue this.

37
38 Commissioner Bair asked staff, because another name occurred to him, which is
39 Le Garage, which he understands has another facility over in San Francisco. Is the
40 City doing research on this issue? There are chains, and there are formula retail
41 establishments and it seems like there are some that if they've got two or three, it's
42 okay, but if it's one everyone recognizes, then the antennae go up.

43
44 Commissioner Petersen said probably national or beyond statewide is where the
45 antennae go up. He doesn't know if the actual code definition is clear or not.

46

1 Commissioner Bair said how are they defining it? Are two a chain? The City needs
2 a better definition on the formula side.

3
4 Mr. Schroeder read the applicable code section: "Formula retail means a type of
5 retail sales activity or retail sales establishment including for food service which is
6 required to maintain any of the following: standardized array of services and/or
7 merchandise; trademark, logo, service mark; symbol, sign, décor, architecture,
8 layout, uniform or similar standardized features.

9
10 Commissioner Petersen said so standardization is the key thing, not merely
11 multiple ownerships of businesses.

12
13 Vice Chair Keller said he thinks when the applicant applied, they were notified that
14 they fell under the restriction of formula retail.

15
16 Commissioner Bair said his question is whether the City is making an effort to
17 uniformly apply this to different establishments that may not have high enough
18 visibility with the City to be able to determine a formula. How do they go about it is
19 his question.

20
21 Mr. Schroeder said it's difficult because the code is not black and white in terms of
22 what qualifies as a formula retail.

23
24 Community Development Director Jeremy Graves noted that when the staff
25 becomes aware of a business that takes a discretionary permit, staff looks at that
26 business vis a vis the zoning ordinance, including the formula retail provisions.
27 There are many businesses that the Commission has listed that these provisions
28 may have applied to, but the formula retail provision was only recently adopted, so
29 all of those pre-existing businesses are essentially legal nonconforming retail
30 businesses.

31
32 Commissioner Bair asked how recent is the formula retail provision?

33
34 Mr. Graves said 2003.

35
36 Vice Chair Keller asked the applicant if it wants a continuance or a vote.

37
38 The applicant asked for a recess.

39
40 Vice Chair Keller said either way, there's going to be no decision that evening and
41 the applicant will have an opportunity to express its position at the next meeting.
42 He asked if the applicant was okay with that.

43
44 (The applicant indicated yes.)

45

1 **Vice Chair Keller moved, seconded by Commissioner Bair, to continue the**
2 **item to a date uncertain.**

3
4 **ROLL CALL**

5
6 **AYES: Commissioners Petersen, Bair and Vice Chair Keller.**

7 **NOES: None.**

8
9 There was a discussion off mic about a date for the continued hearing. No date
10 was selected.

11 **3. 103 BONITA STREET (DR 07-009/APN 065-082-04)**
12 **Don Olsen (Applicant)/Michal Staninec (Property Owner)**

13
14 **The applicant, Don Olsen, on behalf of the property owner, Michal Staninec,**
15 **is requesting a Design Review Permit for a proposed stairway and room**
16 **addition to a single-family residence. The proposed project, which would**
17 **connect the home to the detached garage, would add 420 square feet of**
18 **floor area, 388 square feet of building coverage, and 680 square feet of**
19 **impervious surface.**

20 Commissioner Petersen noted that the first time the Commission heard this item,
21 he recused himself because he lives within a block of the project. But now the
22 Commission has a clearer understanding of what defines conflict of interest. He's
23 not a leaseholder or property owner in that neighborhood and so the City's legal
24 counsel has determined that he is allowed to hear and vote on this item. He did
25 talk with the applicant about the project and he has read the staff report from the
26 last hearing.

27 **Staff Report by Associate Planner Brent Schroeder**

28 The applicant, Don Olsen, on behalf of the property owner, Michael Staninec, is
29 requesting a Design Review Permit for a proposed stairway and room addition to
30 a single-family residence. The proposed project, which would connect the home
31 to the detached garage, would add 420 square feet of floor area, 388 square feet
32 of building coverage, and 680 square feet of impervious surface.

33 The application was previously heard at the November 7, 2007 meeting of the
34 Planning Commission. The Commission considered the original project, which
35 required a design review permit for an addition to a single family residence which
36 attached the home to the detached garage. At that time the project required a
37 variance to the increased setbacks that would be required due to the overall
38 building length. The increased setback applied to the proposed addition. The
39 staff report explains the more complicated aspects of determining what the
40 increased setback was. In summary, the overall length required for the increased
41 setback would be 13 feet, 10 inches. A 2-2 vote by the Planning Commission

1 effectively denied the project; the appeal was made to the City Council on
2 January 8, 2008. At that time the City Council voted 4-1 to remand the project
3 back to the Planning Commission with direction not to increase the
4 encroachment into the side yard setback. The applicant returned with revised
5 plans in March, 2008, that increase the setback from the proposed addition to 13
6 feet, 10 inches from the property line, therefore a variance would no longer be
7 required for this project. The revision also reduced the size of the proposed
8 expansion to 388 square feet of additional building coverage and 420 square feet
9 of additional floor area. The project now complies with all aspects of the zoning
10 code for the R-2, 2.5 zoning district. The application requires a design review and
11 heightened review. The project revisions do not affect staff's conclusion in the
12 November 7, 2007, staff report that all findings can be favorably made for design
13 review and heightened review.

14 The applicant submitted neighborhood outreach letters as described in the
15 previous staff report. With the most recent revision, story poles were put in place
16 to show the new height of the structure. The neighbor at 506 Pine Street objected
17 to that height. The Commission has a photograph showing the story poles. Two
18 days ago the property owner and the neighbor met and decided on revisions that
19 lowered the height of the roof by creating a flat roof. (As shown by red line on
20 photograph.) It is his understanding that the neighbor now supports the project as
21 revised. Staff recommends that the Planning Commission adopt the attached
22 resolution of approval.

23 **Presentation by Applicant's Architect John McCoy**

24 Mr. McCoy noted the Commission and City Council have stated they could
25 approve the project if the need for a variance was deleted. There is no need for a
26 variance now and in addition, he's changed the roof to a flat roof to address
27 height concerns of the neighbor, and he actually likes the design better now.

28 **Public Comment**

29 **Roger Regera** owns 506 Pine Street. He's reviewed the present project and
30 strongly recommends approval of the project as submitted that evening.

31 **Michael Staninec** is the applicant owner. He respectfully requests approval.

32 **Commission Discussion**

33 Commissioner Bair said he was for it before and he's for it now.

34 Commissioner Petersen said he's for the project. But given that, he liked it better
35 the way it was before. The review process ended up creating some awkward
36 spaces, but if everybody is happy with it, so be it.

1 Vice Chair Keller thanked the applicant for persevering. He knows it's been a
2 long process, but hopefully it will be a good project. He's in favor of it. He wasn't in
3 favor of it before because of the variance issue.

4 **Commissioner Bair moved, seconded by Commissioner Petersen, to adopt**
5 **the draft resolution of approval and attached conditions of approval as**
6 **submitted.**

7 **ROLL CALL**

8
9 **AYES: Commissioners Petersen, Bair and Vice Chair Keller.**

10 **NOES: None.**

11

12 **ADJOURNMENT**

13

14 **Vice Chair Keller moved, seconded by Commissioner Petersen, to adjourn**
15 **the meeting. The next Planning Commission meeting is June 25, 2008.**

16

17 Respectfully submitted,

18

19 Tricia Cambron

20 Minutes Clerk

21

22 CDD\Plan Comm\Minutes\2008\06-11-08-Approved