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5 **SAUSALITO PLANNING COMMISSION**
6 **REGULAR MEETING**
7 **Wednesday, July 9, 2008**
8 **APPROVED MINUTES**
9

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

13
14 **ROLL CALL (not recorded)**

15
16 **PRESENT: Commissioners Stout, Bair; Chair Kellman**
17 **ABSENT: None.**

18
19 **APPROVAL OF AGENDA**

20
21 **DIRECTOR'S REPORT**

22
23 **PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

24
25 **NEW PUBLIC HEARINGS**

- 26
27 **1. 74 SPENCER AVENUE (DR/EA 08-005)**
28 **Petra Longley (Applicant)/Mr. and Mrs. Thomas Hoffman (Owner)**
29

30 **Approval of a Design Review Permit and Recommendation of City Council**
31 **approval of an Encroachment Agreement in order to construct an off-street**
32 **walkway, planter, and various related improvements within the public right-**
33 **of-way on the project site's frontage with Spencer Avenue.**

34
35 Commissioner Bair suggested the Commission take public comment on this item
36 and then proceed to Commission discussion. The report is available to the public
37 and the Commission has read the staff report. If there is comment from the public,
38 that should be heard, but if not, he sees no reason to repeat the staff report.

39
40 Chair Kellman read the project description for 74 Spencer Avenue and asked if
41 anyone from the public would like to speak to the project.

42
43 There was no response from the public.

44
45 **Public Comment closed.**
46

1 **Commission Discussion**

2
3 Commissioner Stout said the location of 74 Spencer Avenue is on a very steep
4 grade road; it's narrow and it's an intersection of Spencer Court. The one traffic
5 concern he would have, because that road is very steep and the space for cars
6 that is allowed is very short, that the Commission allow traffic to be between 10
7 and 3, to avoid any obstruction of commuters from early morning and coming
8 home at night.

9
10 Chair Kellman asked if the applicant is present? Okay. Does the applicant want to
11 speak to the project? Let the record show the applicant has declined to make a
12 presentation.

13
14 Commissioner Stout said the second recommendation he would make regarding
15 the encroachment, to City Council, regarding the tree in the right away that is
16 proposed to be moved, it would be in the City's best interest to replace this tree
17 with two trees. The likelihood of a tree surviving being replanted is about 50 to 60
18 percent, so purchasing two trees to be planted in place of the one would be a good
19 recommendation. The trees don't have to be placed on the applicant's property; it
20 should be Sausalito's choice of where these two trees should be placed.

21
22 Chair Kellman said the Commission has two actions to take: A vote on the design
23 review and then a vote on a recommendation to City Council for the approval of
24 the encroachment.

25
26 **Chair Kellman moved, seconded by, to approve the design review**
27 **application and recommend to the City Council that they approve the**
28 **encroachment application with the changes recommended by Commissioner**
29 **Stout.**

30
31 Community Development Director Jeremy Graves asked about the
32 recommendation of a condition to restrict traffic. What times?

33
34 Commissioner Stout said between 10 a.m. and 3 p.m.; from 8 to 10 a.m., for
35 people going to work and then from 3 to 6 p.m., for people going to and from work.

36
37 Mr. Graves said that's a restriction on time of construction?

38
39 Commissioner Stout said if they need to stop traffic, yes.

40
41 Chair Kellman said there are standard conditions in the resolution of approval for
42 construction times.

43
44 Commissioner Stout said he's referring to restrictions if they need to put a Bobcat
45 or backhoe on the street and they need to stop traffic, that that be limited to
46 between 10 a.m. and 3 p.m.

1
2 Commissioner Bair said that way it's not restricting rush hour traffic. Spencer's
3 pretty well traveled between 8 and 10 a.m.

4
5 Commissioner Stout said the intersection at Spencer Court comes into play, also.

6
7 Mr. Graves confirmed that would be a condition relative to the design review, not
8 the encroachment permit?

9
10 Chair Kellman said that's correct.

11
12 Mr. Graves said the condition would read that: Obstruction of traffic for
13 construction purposes may only occur between the hours of 10 a.m. and 3 p.m.

14
15 Commissioner Stout said that's correct.

16
17 Chair Kellman said there's a pending motion. Is there a second?

18
19 Commissioner Stout seconded the motion.

20
21 **ROLL CALL**

22
23 **AYES: Commissioners Bair and Stout; Chair Kellman**

24 **NOES: None.**

25 **ABSENT: None.**

- 26
27 **2. 70-76 LIBERTY SHIP WAY (DR/MND/SP 07-017)**
28 **Scott Hochstrasser, International Planning Associates Inc. (Applicant)**
29 **Liberty Ship Way II Partnership (Owner)**
30

31 **The applicant, Scott Hochstrasser, requests Planning Commission approval**
32 **of an Initial Study/Mitigated Negative Declaration, Design Review Permit, and**
33 **Sign Permit to construct approximately 57,075 square feet of industrial**
34 **buildings on a 3.9 acre parcel located at 70-76 Liberty Ship Way (APN 065-**
35 **132-35) near Schoonmaker Point. The project proposal includes four**
36 **buildings of 32 feet in height with approximately 119 parking spaces. Site**
37 **access is via Liberty Ship Way, with interconnections to the existing**
38 **Schoonmaker Point Marina parking area. An existing marsh restoration**
39 **easement located along the southern edge of the site will be preserved, as**
40 **well as an adjacent existing Class I pedestrian and bike path along the**
41 **waterfront.**

42
43 **A draft Initial Study/Mitigated Negative Declaration (IS/MND) was prepared**
44 **for this project in accordance with the California Environmental Quality Act**
45 **Guidelines. A Notice of Intent to adopt a Mitigated Negative Declaration was**
46 **posted with the County Clerk and the State Clearinghouse on May 30, 2008,**

1 **initiating the public review period the IS/MND, which is scheduled to close**
2 **on June 30, 2008.**

3
4 **Staff Report by Associate City Planner Sierra Russell**

5
6 Ms. Russell reported that this is a continuance of the public hearing on 70-76
7 Liberty Ship Way to receive public testimony on the Mitigated Negative Declaration
8 (MND) and the Initial Study. Based on the applicant's request, the design review
9 has been continued to a date uncertain. The period for public comment has been
10 extended to July 23, 2008, and the interested agencies were advised of that
11 extension.

12
13 Chair Kellman said she has a question about process. At the conclusion of the last
14 hearing, the Planning Commission made several recommendations to staff,
15 including increasing the scope of this Initial Study/MND and she's wondering how
16 that plays into the timing and what the Commission is receiving public comment on
17 that evening.

18
19 Ms. Russell said they are receiving comment on the Initial Study/MND. So
20 essentially they are in the public review period. Staff is going to wait until all public
21 comment and agency comment have been received and once the public comment
22 is closed, staff will be responding to those comments and looking into how the
23 environmental determination may change, how they will respond to those
24 comments.

25
26 Community Development Director Graves said staff certainly recognizes the
27 concerns of the Commission enunciated at the conclusion of the last hearing
28 regarding traffic, aesthetics, the biological assessment, cultural and recreational
29 resources and the land use and planning issues.

30
31 Commissioner Bair said since he wasn't at the last meeting. What staff is
32 envisioning right now is to gather whatever further comment might come in during
33 the extended public comment period and then when that is closed, staff will come
34 back and make a recommendation to the Commission considering those
35 comments?

36
37 Mr. Graves said that's correct; the staff will consider all the comments at the
38 conclusion of the comment period and then come back to the Commission with
39 staff's recommendation and to obtain direction from the Commission. The
40 Commission has to feel comfortable with the document before it takes action.

41
42 Chair Kellman said at the last meeting they had extensive conversation and
43 discussion about the scope and the documentation presented to the Commission
44 and she's pleased to see several new faces in the audience.

1 Does the applicant want to make a presentation before the Commission begins
2 taking public comment.

3
4 The applicant's representative Scott Hochstrasser said he'll make his comments
5 after public comment is taken.

6
7 **Public Comment**

8
9 **Harriet Moss** is a Sausalito resident. She is also on the board of directors of
10 Environmental Traveling Companions, which is a national nonprofit organization
11 that takes people with disabilities on outdoor ventures. They served 2,000 people
12 last year and of that 2,000 over 800 came through the sea kayaking program,
13 which is based here on the property in question. She just wants the Commission to
14 know they are here. She hopes that the needs of the organization and the needs
15 of the special population they serve will be taken into account as this project
16 moves forward. The executive director of her organization, Diane Poslosky, is also
17 a Sausalito resident, and Ms. Poslosky just won a Jefferson Award from the
18 American Institute for Public Service. Ms. Moss presented an article to the
19 Commission that describes what ETC does.

20
21 Chair Kellman said companies go out of business all the time and the kayaking
22 company could go out of business; what is it exactly that you would say ETC
23 needs from this situation, what would Ms. Moss like to see down there, not in
24 terms of design, but in relation to the Initial Study and MND, such as related
25 perhaps to the recreation part of the documents; does she want to make more
26 specific comments about that?

27
28 Ms. Moss said she would rather hold on that and leave that to the executive
29 director of the organization. She knows that they have been there for over 15
30 years and worked very closely with Sea Trek and would like to continue to do so.
31 They have people who are in wheelchairs, people who get carried down to the
32 water, so access is very important, and it has to be nearby access, not
33 somewhere way in the back of where all the buildings are.

34
35 **Carolyn Ford** lives at 201 Valley Street. She didn't intend to speak that evening
36 because she thought everything was pretty well covered last time, but she thinks
37 what they need to do is certainly keep in mind the things that were covered last
38 time and that is the need for an EIR. Most of the people here who spoke last time
39 said we definitely need an EIR to cover such issues as traffic, aesthetics, the
40 nature and the project's effect on the marsh lands next to it. And then in terms of
41 Marinship itself, to look at this not merely project by project, which seems to be
42 happening now. Projects are being brought before Planning and Planning is
43 approving or not approving it based on one project. But the City has the whole
44 Marinship to look at in terms of development and, as others mentioned last time,
45 the residents do not want Sausalito to become an office park. Sausalito does not
46 want to become a nine-to-five office workers place, and that's not what they want

1 in the Marinship. They need an overall plan; this should be a part of the City's look
2 at what is done with the Marinship overall and any project of this magnitude,
3 57,000 square feet, should definitely have an EIR.

4
5 Chair Kellman noted that if someone wants it on the record that they are present
6 for the hearing, but don't want to speak, they can just come up and state their
7 name for the record. Otherwise, their attendance will not be noted.

8
9 Chair Kellman said she seems to recall at the last meeting there was mention of a
10 visioning committee for the Marinship and there was going to be a meeting?

11
12 Ms. Russell said there is a Waterfront Marinship steering committee and they meet
13 monthly the first Thursday of every month in City Council chambers. They had a
14 meeting last Thursday and the notes and presentations are posted online.

15
16 Chair Kellman asked if anyone from staff attended?

17
18 Ms. Russell said yes, she was at the last meeting.

19
20 Chair Kellman asked if this project was discussed at all?

21
22 Ms. Russell said the committee was briefed on the project by Barry Petersen.

23
24 Chair Kellman suggested in the future someone from that committee should be
25 invited to come to the hearings and make comments if they desire.

26
27 Mr. Graves said Ms. Russell gave a very good overall presentation of the
28 Marinship Specific Plan at that meeting, going back to its origins and bringing it up
29 through the types of land use and the types of regulations that apply to the
30 different properties in the Specific Plan. She also spoke to the Traffic Initiative and
31 how that applied in the Marinship area. Commissioner Petersen provided an
32 overview of the last Commission hearing and Michael Rex provided his
33 perspective on the preparation of the Marinship Specific Plan. It was a rather
34 extensive discussion that went on for about an hour or so. Staff reminded those
35 present at the committee meeting of the Commission meetings of July 9 and 23,
36 and also alerted those present of the extended comment period to July 23rd.

37
38 Chair Kellman asked if the steering committee is akin to the Historic Landmarks
39 Board (HLB) in that it is an appointed body, a subcommittee of residents; she asks
40 because she'd love to get those folks in the room while they are talking about
41 these issues.

42
43 Mr. Graves said it's an advisory committee whereas the HLB is identified in the
44 municipal code as an approval body, so they are a little different.

1 Chair Kellman said they should talk about a strategy to assure that the two
2 processes aren't proceeding in parallel.

3
4 Mr. Graves said that's one of the concerns the Waterfront and Marinship
5 Committee has. There's a concern that here this project is proceeding down the
6 public review and approval process and the committee is saying "we're trying to
7 still figure out what shape the table is." But unless a moratorium is placed by the
8 City Council on projects coming in, the City still has to process projects as they
9 come in and take them through the approval process.

10
11 Chair Kellman asked who is the chair of the committee?

12
13 Ms. Russell said Chris Gallagher from the Army Corps of Engineers.
14 Commissioner Stout is also on the committee as an alternate.

15
16 Chair Kellman said maybe Commissioner Stout can give the Commission an
17 update on that process after they take public comment.

18
19 **Bonnie McGregor** has been a resident of Sausalito for a long time. She is also
20 currently the chair of the transportation action committee. She wants to second the
21 comments made by Carolyn Ford. This is a serious matter and she doesn't want to
22 see it jammed through. She doesn't care what the buildings look like or anything
23 else, it's a serious concern to push something through quickly before the Marinship
24 and Waterfront Committee has an opportunity to provide any advice to what will
25 follow on that. That is her personal opinion and her opinion as the chair of one of
26 the other action committees.

27
28 **Charlotte Mastrangelo** lives in Sausalito, and according to this memorandum,
29 unless he gets up and says something, she's not going to be advised of any future
30 meetings. She's disappointed in that. She's also very disappointed that they only
31 have one member who was at the meeting prior to this, at the Planning
32 Commission tonight. This is inexcusable as far as not postponing it until the other
33 members are here. She agrees with everything Carolyn Ford has said. She is
34 disappointed also that she canceled another meeting to come here tonight for this
35 and they are obviously not having a meeting on that and this is something that
36 should be addressed in the future.

37
38 Chair Kellman asked if Ms. Mastrangelo has suggestions on how this should be
39 handled in a better fashion? This is the second hearing on the project and the first
40 hearing was well attended. The public is actually going to get the benefit of five
41 Commissioners' comments because two other Commissioners were present at the
42 last hearing. She's not understanding what the speaker is having a problem with
43 as far as the process.

44
45 Ms. Mastrangelo said the Commissioners should make more of an effort; she
46 knows they can't all be present every single time, but this was set up--

1
2 Commissioner Bair said he tried to come back from Wisconsin but he just couldn't.

3
4 Chair Kellman said the two vacancies are, in fact, vacancies.

5
6 Ms. Mastrangelo said she's aware of that. Jonathan Leone and -- can't think of his
7 name. She's aware of that and that there is a new member on the Planning
8 Commission and she's very happy about that. And welcome.

9
10 **Richard Graff** lives at 300 Napa Street. He just wanted to join in the comments
11 that an Environmental Impact Report is truly necessary for this project. He
12 reminded the Commission and staff that, as was brought up last time, the first time
13 this project was presented or an application was put forth, it was for the whole
14 entire project, all five buildings, he believes it was, and at that point it was
15 determined that an EIR would be required and the project was subsequently
16 reduced to the point where it was able to get through with a Negative Declaration.
17 So just a reminder of that. And also, last time he withheld his comments about
18 design and he'll continue to do so, but he'd like to point out one additional
19 important view impact. He noticed when he was on the site the other day that one
20 of the really critical views is the one from the beach area, if this building were
21 there, it would really block a very nice view up to the hills behind Sausalito.

22
23 **Vicky Nichols** lives at 117 Caledonia. She would agree that an EIR is required for
24 this project. She thinks staff will reach that conclusion. The other thing, about
25 noticing, this needs to be noticed as much as possible. Previously there have been
26 lists that people could subscribe to where they get emails on everything on the
27 project.

28
29 Ms. Russell said everyone that filled out a speaker card at the last meeting was
30 notified.

31
32 Ms. Nichols said a more general notice is needed; somebody that maybe doesn't
33 come to the meetings that is concerned about this project should be informed. The
34 residents used to be able to get agendas in advance, straight from the City. You
35 could subscribe to them.

36
37 Ms. Russell said they're posted online on the City's website. The meeting was also
38 posted in the MarinScope. The staff has noticed the neighbors twice in addition to
39 the persons that filled out the speaker cards.

40
41 Commissioner Bair said if there's another process Ms. Nichols has in mind?

42
43 **Carolyn Ford** said she was at the last meeting and she didn't get a special email
44 regarding this. But one action that would help is to put an In the Loop out to
45 everyone regarding this project. Because In the Loop is published quite often now
46 for things that aren't, in her view, quite as important as this. That would help. The

1 other thing she knows is that there was a rumor going about town that the
2 applicant was not going to be present at the meeting that evening and the
3 Planning Commission was going to be hearing this at a different date, so she
4 thinks that's why they aren't seeing the turnout that evening that they had last time.

5
6 Chair Kellman said two items: One is that if anybody in the audience is ever
7 concerned about getting information from the City that's not project specific, she
8 urges them to speak with the Community Development Director or staff about
9 creating additional procedures to do that, and if need be, the Commission will
10 make it an item on the Commission's agenda that is publicly noticed, and they've
11 done this before, they've had workshops on things like this. As to whether or not
12 there was a rumor, she actually heard something similar, and it was a confusion as
13 to whether design review as going to be heard that evening, as well as information
14 about the Initial Study and MND. It was made very clear at the prior meeting that
15 they would be having this meeting and that the design review was continued to a
16 date uncertain. The meeting was publicly noticed and is on the City's website.

17
18 **Tom Hoover** lives at 300 Napa Street. Since there are some new Commissioners,
19 he wanted to remind them of what he brought up last time, which Mr. Graff
20 referred to, about the previous EIR being required for development on that
21 property. He brought in the paperwork from when the City sent out to contract for
22 that EIR and all of the issues that were in it. So that is available to the
23 Commissioners. At that time it was for five buildings, and the concerns were
24 piecemeal planning. They then did come back and did one building out of five that
25 they were planning for the property and then they've come in again and so this is
26 an example of the piecemeal planning that the previous Planning Commission and
27 the Community Development Department had been afraid of. It seems on the face
28 of it an EIR really is required and there are records of what would be likely to be in
29 the EIR in the present.

30
31 Mr. Graves addressed some of the comments from the public in support of having
32 an Environmental Impact Report prepared on the project. Environmental Impact
33 Reports are required for projects which have significant unavoidable adverse
34 impacts, and so what is front of the Planning Commission right now is the Initial
35 Study and the Mitigated Negative Declaration. The purpose of the Initial Study is to
36 provide a checklist which goes through the various environmental resources and
37 the checklist asks: "Will the project cause this; will the project cause that?" The
38 staff uses the checklist to determine if the project will cause an unavoidable
39 adverse impact. If this is the case, then an EIR is required. That's the standard
40 that has to be met. An EIR does not necessarily stop a project. A project can still
41 be approved even after an EIR is prepared. And EIR is a full disclosure document
42 of the environmental impacts of a particular project. If the Commission or the
43 Council, depending on which is the final decision making body, decides to approve
44 the project, then that decision-making body needs to make some additional
45 findings that these significant unavoidable adverse impacts of the project are
46 acceptable given the overriding considerations and the benefits provided by the

1 project. The City is in now in the public comment on the Initial Study and the
2 proposed Mitigated Negative Declaration. The question is: Are any of the
3 resources or the environmental attributes in the Marinship and surrounding area
4 going to be subject to a significant and unavoidable adverse impact as a result of
5 the project? The Commission has extended the public comment period on this
6 document until July 23, another two weeks, and at the conclusion of that staff will
7 go back and review the comments and bring back a recommendation to the
8 Planning Commission for action.

9
10 Chair Kellman said the Community Development Director is advising us to be as
11 specific as possible in your statements, and the public also has the opportunity to
12 submit written comments up and through July 23.

13 14 **Continued Public Comment**

15
16 **Heather Wilcoxin** lives at 300 Napa Street. Last week everybody who came up
17 and spoke was very specific about how much this would impact the community,
18 from the marsh, to the traffic, to the sewer, to aesthetics. An Environmental
19 Impact Report is definitely needed, and she knows that's not going to guarantee
20 this project isn't going to be built, but it needs to be clarified as to the applicant's
21 intent and how it's going to impact the community.

22
23 **Julie Warren** lives at 1707 Bridgeway. She's taken a couple of walks down to the
24 site, spoken to some of her environmental engineering friends who have worked
25 on projects like this and, as she mentioned at the last meeting, the hydrology and
26 the state of the fill underneath the fill that came from Lime Point in that
27 neighborhood is substandard and is also seriously polluted from World War II
28 activities. And as the record has been sealed on a lot of what happened in that
29 area, that creates some concern. Additionally, her research has shown that snowy
30 egrets, pelicans, other birds migrate through that marsh and very much need that
31 environment intact. Heron also lay their eggs in the area which attracts the Bay
32 seals. All of this creates a beautiful environment and is helping to restore a lot of
33 what's been damaged in Richardson Bay recently. Looking at how the area
34 adjacent to the path has been maintained, somebody went down there and mowed
35 it, so instead of seeing the normal marsh grasses, all you see is what looks like
36 somebody's dead back lawn from a tenement. Which is not the normal look of that
37 neighborhood. Given the fragility of the species in and around that area, a larger
38 buffer zone than just to the bike path could be recommended. The egrets are not
39 likely to be hanging in their normal area if they can't get there or if they feel
40 infringed upon.

41
42 **Rudy Salazar** lives at 100 Gate 6 Road. From what he recalls form the
43 descriptions, the buildings are going to be built in the boat storage area and it was
44 implied that it was all paved. Only a small portion of the boat storage area is
45 paved; most of it is sand; it's unpaved. There's a lot of undergrowth around there,
46 weeds and grasses and things like that that grow underneath the boats and you

1 just park right over that stuff. As far as the EIR goes, a study has to be done on
2 the environmental dynamics from that dirt area that contribute to the life and
3 everything in the marsh itself, because there's a lot of insects and things like that
4 that can very well live in that unpaved area that's full of overgrowth. It's very
5 difficult to mow that area because you'd have to move all the boat trailers there.
6 He does recall that it was implied the whole area is paved and it is not.

7
8 **Bonnie McGregor** asked staff to repeat the explanation of the impacts that trigger
9 an EIR? "Unavoidable--"

10
11 Mr. Graves said it is significant, unavoidable adverse impact.

12
13 Ms. McGregor says she has questions about this shopping list that you go
14 through; how detailed are the definitions of these things?

15
16 Mr. Graves showed Ms. McGregor the checklist.

17
18 Ms. McGregor asked if each question is very detailed as to what is meant by that
19 unavoidable significant negative impact? That's a pretty general phrase. Do they
20 define what they mean by that?

21
22 Ms. Russell said it's defined in the California Environmental Quality Act guidelines.

23
24 Chair Kellman said after the meeting, she will give Ms. McGregor her copy of the
25 draft Initial Study and negative declaration and avoidance measures.

26
27 **Carolyn Ford** commented on something staff said, that is, asking the City to put a
28 moratorium on building in the Marinship until such time as a plan is developed.

29
30 Chair Kellman said she has to ask everyone to refocus; this is a public hearing on
31 the Initial Study and the Mitigated Negative Declaration. Comments about the
32 environmental impacts are welcome; comments about the desire for a moratorium
33 or any sort of other dynamic emerging in the Marinship, that desire should be
34 addressed to the City Council because that is a policy decision.

35
36 Ms. Ford said she would ask the Planning Commission to take that to the City
37 Council because right now there's a big disconnect. The City Council is saying we
38 want to have an overall plan, and yet they are allowing projects like this to flow
39 through the Planning Commission.

40
41 Chair Kellman said the City Council is an elected body, the citizens are the
42 electorate. She urged interested citizens to go to the City Council and let them
43 know how the citizens feel.

44
45 Nicholas (inaudible) lives at 300 Napa Street. The last time that these property
46 owners wanted to build the same exact project they were told to get an EIR. He

1 doesn't know if the laws have changed since then, but it seems the conditions are
2 exactly the same. He's just wondering what's going on here that the City officials
3 would look the other way? He's a builder, we'd all love to do end runs around the
4 law, but it doesn't seem to be going the way the laws are designed to go here.

5
6 **Andrew Scott** lives at 46 Grand View Terrace, San Francisco. People have talked
7 about the habitat in the marsh area, but actually the dirt storage area has a variety
8 of plovers that end up nesting there, amazingly enough, underneath boats that
9 don't get moved very often. It's a fairly open area so they can see predators
10 coming. So there are actually birds living in the storage area, which he doubts
11 would happen in a paved parking lot.

12
13 Chair Kellman asked if he is a biologist?

14
15 Mr. Scott said yes, but not a bird specialist. He's a microbiologist.

16
17 Chair Kellman said she was wondering if this species of bird he's referring to is a
18 protected species, either state or federal species? She asked staff to research that
19 question.

20
21 Mr. Scott said there's a big boat covered in a silver tarp and to the aft of it on the
22 left-hand side there's a nest.

23
24 **Public Comment closed.**

25
26 **Applicant Representative Remarks**

27
28 **Scott Hochstrasser** thanked the public for their comments. They have some very
29 good thoughts and ideas about further study for this project. He pointed out that on
30 the checklist, from a land use perspective, there is definitely a disconnect going on
31 in the City given that it is again studying the Marinship Plan. There is a Marinship
32 Plan that was adopted and certified by the City Council; it has specific zone
33 planning for it. This project is designed to meet the requirements of that plan; it's a
34 completely application that looks it into what policy and regulations they will be
35 required to meet. So from a land use perspective, the staff's report and Initial
36 Study is absolutely on point in terms of what the applicant proposes and how it fits
37 into the General Plan and the land use policies and the specific zonings for this
38 site. With respect to some of the other issues, he heard a lot of people saying they
39 want an EIR because one was required previously. That's just like saying there
40 was an EIR done five years ago and we want to use it again fro the new project.
41 You can't do that. They become stale. This is a new checklist, it's a different
42 project and the staff has done a good job in identifying the potential significant
43 adverse impacts and identifying the studies that are necessary to provide evidence
44 to show that there is a potential to mitigate those, or feasible mitigations. This
45 project has potential significant adverse effects, there's no question about that,
46 and that's why the Initial Study has mitigations. It doesn't have significant adverse

1 impacts that cannot be mitigated to less than significant. They are mitigated; that's
2 why you have the negative declaration. An EIR doesn't do anything else but look
3 at cumulative, which staff has done in its traffic report and look at alternatives, and
4 which the applicant is considering given all the testimony that's been heard.

5
6 Finally, the test that the Commission and the Council and the public is responsible
7 for is not just to throw out ideas and emotions and thoughts; the test is the General
8 Plan, the thresholds for impacts, and the test is the baseline. One of the speakers
9 that evening spoke about the Sea Trek kayaking as if it's going away, but that's not
10 the plan. There's not a plan to keep it; there's not a plan for it to go away.
11 Businesses come and go. But there's an opportunity for that use to continue and
12 there's a great desire by the applicant to keep that use. But he would like to point
13 out that in the baseline analysis for traffic impacts, the Sea Trek kayak operation
14 has a significant impact on the parking that exists and a significant impact on the
15 traffic, particularly with people that come and go for that particular use. Again,
16 there's no plan to get rid of that use and there's no plan to keep that use
17 necessarily, but if that works out that they can stay there and the applicant can
18 meet the traffic requirements, that was used as one of the baselines. So the
19 applicant wants that use; it's been used as a part of the analysis for the baseline
20 and they're looking forward to having that use, but the applicant can't make
21 business decisions for Sea Trek, whether they stay or not. Sea trek's decision,
22 he's sure, is going to be based on what the rents are going to be. Right now, Sea
23 Trek's rents are very low because they've been occupying a high value piece of
24 property that's rented very cheaply. So people should keep that in mind. Lastly,
25 baseline thresholds and cumulative impacts and then alternatives. What the EIR
26 does is bring forth alternatives for the Commission and the Council to consider and
27 the applicant is working on alternatives as well. The applicant will be meeting with
28 the City staff tomorrow to show them some possible options and alternatives. The
29 applicant would appreciate the opportunity to speak with some of the people who
30 were at the last meeting and are here at the second meeting. It is the applicant's
31 intention to develop an alternative plan and to do community outreach, but to do it
32 within the scope of what already exists in terms of policy and regulation.

33
34 Chair Kellman asked if Mr. Hochstrasser to speak to one of the public inquiries
35 regarding the paved versus the sandy area in the storage area, since he
36 mentioned baseline?

37
38 Mr. Hochstrasser said absolutely. It's gravel and some of it's sandy now and some
39 of it is paved for the parking lot. The plan is for a pervious surface that would allow
40 the drainage to continue through the site. There was also a point raised about the
41 World War II fill and the contamination. This site has had a phase one assessment
42 of the geology; there has been a geotechnical report to show that the project is
43 feasible from a geotechnical standpoint and from a hazards and safety standpoint.

44
45 Chair Kellman said Mr. Hochstrasser mentioned community outreach. She asked
46 Mr. Hochstrasser to strongly consider doing a workshop from a design review

1 standpoint, a study session where there won't be any votes taken, but that will give
2 the applicant an opportunity for people to come in at early stages to comment on
3 the design and other issues that might be present. She would strongly urge Mr.
4 Hochstrasser to go to the next meeting of the Marinship steering committee and
5 present the project to them. He has said he wants to do community outreach and
6 there's a disconnect in the community about what's going on in the Marinship, so
7 she would strongly urge him to let those folks know what the applicant is planning.
8 Right now, he's right; right now under the Marinship Specific Plan from a land use
9 perspective, he may very well be in compliance; she hasn't looked at that issue yet
10 but he very may well be, but he doesn't know what's going to happen with the
11 Marinship Specific Plan, so she suggests that if he wants to conduct community
12 outreach he should get with the Marinship committee and talk with them about that
13 plan.
14

15 Mr. Hochstrasser said they have talked with the steering committee and they know
16 that the objective of that plan, one of them, is to change the uses in the Marinship
17 area. And the applicant is not particularly interested in doing that, so there's kind of
18 a disconnect in that the applicant is proposing particular uses that are consistent
19 with the plan today and that's what the applicant is required to comply with. But his
20 understanding is that some of the steering committee members would like to take
21 those uses to some other level, but the applicant is not interested in that at this
22 point. They do intend to dialogue with the committee, they just don't intend to wait
23 five years for them to decide something.
24

25 **Rudy Salazar** noted the applicant brought up some subjects that weren't part of
26 the EIR discussion in mentioning the kayaking. There are possibly two or three
27 kayak companies there actually. The applicant mentioned that they're getting
28 cheap rent on valuable land, but he would like to point out there is more value to
29 property than what you can get from a building rent on it. It shouldn't be part of the
30 EIR discussion, but he brought the subject up.
31

32 Chair Kellman said she'll take it as a comment on the cultural resources.
33

34 Mr. Salazar said the value of having that open space with actual boats there is
35 important to recognize. He pointed out that in the parking area that would be wiped
36 out there are 15 rowing boats, 27 power boats, 41 sailboats and a 100-plus
37 kayaks. He doesn't think there'd be room for even the 100-plus kayaks in the plan
38 as it is being presented now. They take space and they take big racks that they're
39 stacked in. The hoist is no longer on the plan. The hoist is how the power boats
40 and the sailboats get into the water, and that's the only hoist that's available to the
41 public-- and actually you have to rent a space to use the hoist-- in Marin County.
42 The next closest available hoist that has the weight requirements and everything is
43 in Richmond. One of the ideal things about the hoist there is you can take your
44 sailboat and drop it in the water without taking the mast down and that's critical.
45 There are no big power lines there or anything like that.
46

1 Chair Kellman said she'll take these are cultural comments, visual impact
2 comments.

3
4 Mr. Salazar said there's more to the value of the whole place.

5
6 Chair Kellman asked if there's anyone from Sea Trek present? Do you want to
7 register that you're here?

8
9 **Bob Licht** owns Sea Trek and has for the last 25 years. He didn't come prepared
10 to speak; he's sort of been wanting to see how this whole thing played out. It's
11 obvious that this location is very special. It's obvious it's important not only to Sea
12 Trek, but to the community also. His company hasn't had any direct
13 communication yet with the developers; it's probably time for that to happen to see
14 really what the intentions are. It's hard for him to talk; it's all rather emotional.

15
16 Chair Kellman said the speaker raises a good point, which is the applicant should
17 reach out to all the existing tenants and that is something that will be discussed
18 and heavily weighed during the design review process. She urged the applicant to
19 make sure that happens.

20
21 Chair Kellman asked if anyone else wished to speak.

22
23 No response.

24
25 **Public Comment closed.**

26
27 **Commission Discussion**

28
29 Commissioner Bair said he has concerns; he doesn't know exactly what was said
30 at the last meeting, he gets a sense of it from the written comments. He noted that
31 anyone who hasn't commented that evening can submit written comments to be
32 considered by staff. His major concerns are the ones raised about traffic, the
33 views, some of the biological concerns and the hydrology. As he understands it,
34 for a MND, they need clear evidence that the mitigation will work. He has some
35 major concerns from what he's read and what has been raised, that his personal
36 threshold in that regard has not been met. He's concerned about the cumulative
37 impacts. He really thinks that this is such a sensitive area for a variety of reasons,
38 from a variety of different perspectives, that to try to have this addressed in this
39 fashion at this point, given the history and the issues that are there, in his mind,
40 the project applicant is being extremely optimistic coming in with this plan. He just
41 doesn't see it at this point. His inclination would be, just looking at what he's
42 looking at and reading materials, that this is more appropriate for a full EIR.

43
44 The community in this particular area, both by coming up with a specific Marinship
45 Specific Plan has indicated that anything that goes on here is subject to a full EIR.
46 As Mr. Graves pointed out, an EIR is a full disclosure document. He's of the

1 opinion, because there are so many aspects to this decision making process, and
2 this is a large project, that what the City needs is something that goes down that
3 road and completely discloses where we are, what the options are and what we
4 can do with it. It's not required, but it would be very helpful in the future, if a project
5 comes in like this, and he's not pointing fingers, but some historical detail would be
6 helpful.

7
8 To address one comment about you're seeing different people on the
9 Commission, right now the whole Planning Commission is in transition. He's been
10 on the Commission a year and a half, Mr. Stout just got appointed, Chair Kellman
11 is going to be on the Commission for only another week and a half. He doesn't
12 know if there is any coincidence in the timing of the project arriving; he doesn't
13 know whether that's true or not, but it really isn't-- it's problematic in the sense that
14 the Commission does have so many people coming and going right now and it's in
15 the middle of the summer where people are taking vacations and the Commission
16 goes out of session all of August. So this is a tough time for a project like this--
17 he's somewhat skeptical of why it's now. And he has no information other than that
18 this is not good timing, to boot, with all the other stuff going on.

19
20 His last comment doesn't have anything to do with the merits of the project, which
21 he really hasn't addressed, it's just from concerns he has about what he's read in
22 the study, he really thinks that the email notice-- the Commission hears this a lot
23 and he knows it's just one of those things that happens, but even if people don't
24 talk, they could fill out one of the speaker cards out so that they can get on the
25 mailing list.

26
27 Mr. Graves said that's absolutely correct; anyone can fill out a speaker card as
28 indicating a request to be noticed or they can email or write the planning
29 department asking to be put on the list.

30
31 Commissioner Bair said that goes to the last comment about community outreach.
32 It's taken five years and two elections to get public safety facilities in this town with
33 a whole lot of community participation, and while this isn't even in that realm--
34 some would see it as more, some of the issues are different-- but again, it goes to
35 his "optimistic" comment, which is that when you're dealing with the Marinship, any
36 applicant needs to start at the outset by talking about what does the community
37 want, even though it's a commercial project. When he reads stuff where one of the
38 letters says there was initially a mention of 28 feet and it came back at 32 feet, and
39 he doesn't know what the case was, but those are the kinds of things that makes
40 everybody get their hair up on these kinds of projects. And he would rather see
41 less hair up on the back of the neck.

42
43 Chair Kellman noted that at the last meeting the Commission made specific
44 recommendations as to aspects of the Mitigated Negative Declaration that the
45 Commission felt were adequate or inadequate, areas that needed expansion of

1 scope and other specific concerns and direction for staff. So if Commissioner Bair
2 has any specific directions to staff that evening, please provide those as well.

3
4 Commissioner Stout said his background is in writing environmental impact
5 statements, designing strategies to restore water resources, designing strategies
6 to create better habitats. He is beyond shock that there hasn't been one done yet
7 here. It's so close to the ocean and coastal line and there are so many unknown
8 factors there that it's amazing to him that they don't have an EIR already. Some of
9 the letters the City has received, especially ones from Bruce Huff, William Werner,
10 bring up some really interesting facts. Within the Marinship Plan you have to have
11 a public project mitigated for public benefits. There's nothing about that mentioned
12 in the report the Commission received. It also states regarding the concern about
13 views and the heights of the buildings-- and on a broader note, looking at this
14 checklist, there's 85 possible things. On the cultural resources, to say there is no
15 impact, he's beyond shocked. The Marinship is there for one main reason, that is
16 for building ships, it's a huge historical cultural impact and he feels like they cherry
17 picked the things that they say have no impact. There's a lot more cultural things
18 going on there that the Commission and staff need to know more about. They offer
19 all these mitigation questions but no solutions; they don't state clearly how they
20 are going to mitigate for these things. And to him, that's a big concern. There are a
21 lot of different design things that need to be questioned and spoken about but
22 that's not up for discussion that evening. Out of the 85 statements that they
23 provide, more than 23 are potentially significant impacts. That's a lot. That's more
24 than 30 percent. And out of the 85, they state that 49 have no impact. He doesn't
25 know who is looking at this area, but he would feel that's a little biased toward the
26 developer's side. On top of that, he feels to state that Sea Trek is a location that
27 the applicant "doesn't know what's going to happen there," -- well, 800 people
28 were there recently, as they heard from one speaker, it seems it is a very
29 commonly trafficked place and people love it and that's a cultural use. It's a
30 waterfront. One thing that he's very confused about is the plans for the buildings
31 themselves show no insides, there's no idea of how it's going to be divided and
32 they do not know who is going to occupy these buildings. From what he knows,
33 the Commission doesn't have a right to demand the applicant to reveal that, but
34 the fact that the applicant has chosen to keep it hidden causes him concern.

35
36 Chair Kellman noted for staff that some of the things the Commission directed be
37 addressed were land use and land use planning, recreation, cultural resources, all
38 of which were entirely left out of the Initial Study and Mitigated Negative
39 Declaration.

40
41 Ms. Russell said regarding the cultural resources, the way that staff assessed that
42 impact is actually based on CEQA's definitions of a historical resource. And if you
43 look at the resources, there's specific lists that are maintained in terms of historical
44 resources and this site doesn't contain that in terms of cultural resources; So it
45 may be that it's locally significant as a cultural resource, which it very well could
46 be, and you can address those impacts when it goes through design review or you

1 can also address it through the environmental review. But she just wants to be
2 clear that cultural impacts were addressed, they were based on CEQA guidelines
3 and there is very specific definitions of what is a historical resource and what isn't.
4

5 Commissioner Stout said he only see A through D listed under cultural resources.
6 Is staff say there are only four listings for cultural resources? Those are the only
7 four questions you ask about a site?
8

9 Ms. Russell said that's based on the checklist provided by CEQA.
10

11 Chair Kellman said she's glad Ms. Russell brought that up; it's a good point and
12 well taken. But her concern is not with B, C, or D, it is in fact with A. The City has
13 had this debate and discussion about how to evaluate a historical resource within
14 the context of this community and the interaction between local and state ideas
15 about historical resources. She's familiar with CEQA and this section of the code.
16 But given the City's prior discussions about it, it should have been included at least
17 to some extent in this Initial Study. A similar argument can be made for the land
18 use and planning issues. The applicant is saying, of "well, if you're looking at the
19 Marinship Specific Plan, we actually comply with all of that," and then we have this
20 larger community issue dealing with exactly what are we doing there and it may in
21 fact be the case, as CEQA is strictly interpreted, that if they comply with the
22 General Plan or the Marinship Specific Plan, it doesn't need to be addressed in
23 this document, so maybe they need to address it elsewhere, whether in public
24 comment, staff report testimony or in a written staff report.
25

26 Commissioner Bair said they might want to take a look at in 15064.5; there's a
27 catchall at A-3, about historical resources in the CEQA guidelines. It's really broad
28 in the sense that the lead agency can make an assessment that these sorts of
29 things do have historical-- and, it says, "any object, building, structure, site, area,
30 place, record or manuscript which a lead agency," which is the Commission,
31 "determines to be historical significant or significant in the architectural,
32 engineering, scientific, economic, agricultural, educational, social, political..." You
33 get the idea. It's pretty broad. And so he's thinking that what Chair Kellman said is
34 right here, that there is probably some authority in CEQA for the Commission to
35 take a broader look at that in terms of what this Marinship means to us on virtually
36 any project that's going to come to the Commission. The Commission is getting a
37 lot of historical context that is being given to the Commission by the community
38 and the authority is there for the Commission to consider that.
39

40 Chair Kellman followed up with her comments from the previous hearing. One in
41 particular she would repeat is the concern about the biological resources in that
42 area. She thought about it a little bit more and someone mentioned that evening
43 migratory birds in that area, and for her, she would love to hear more about some
44 sort of interaction with U.S. Fish and Wildlife Service or the California Department
45 of Fish and Game. There are endangered and threatened species there; they have
46 species of California concern there. The Federal Migratory Bird Treaty Act may

1 apply. There is a range of issues here and the biological assessment, while a good
2 start, was nowhere near as wide and expansive as it needs to be. She's always
3 thought that the Marinship Specific Plan needed some sort of CEQA review in and
4 of itself and probably needs some sort of biological assessment for that area, and
5 she really hopes that when and if it is revised that there is a biological assessment
6 of the entire area. It strikes her that there is a reduction of the buffer zone, the
7 impacts on the upland habitat, all of which are covered by Fish and Game and
8 Fish and Wildlife, and there's no comment here from those services. There are
9 potential wetlands, and she would like to see some sort of commentary; that would
10 be a federal nexus and it's possible that this project impacts other aspects of the
11 marshland and they don't have any sort of broad study of this area. Some of that is
12 the applicant's problem; some of it is not.

13
14 Commissioner Bair said there was a comment earlier about along the walkway
15 next to the marsh, the chain link fence and then the yard there, that it's been
16 recently mowed. Was that a City mowing job?

17
18 Ms. Russell said it's not City property.

19
20 Commissioner Bair said that would be his comment. This is not the first time-- he
21 doesn't know who it was but it would really distress him in terms of thinking about
22 the good will on projects and how you proceed, but if we have project owners--
23 who are well within their rights, if that's what they want to do-- it's like the Victory
24 Garden down at Arquez, and when people go out and start cutting things down in
25 anticipation of a project-- he gets to get on a little soapbox here-- we don't know
26 why, but if that were the case, he would be very distressed about it.

27
28 Chair Kellman said the larger point here is that unless there are avoidance and
29 minimization measures to help with mitigation, there's no guarantee, a lot of it is
30 done on good faith. And so, as Commissioner Stout pointed out, the Commission
31 is concerned with the number or percentage of potential impacts, that just adds to
32 the number of things that have to be mitigated, so it has to be a balancing act of
33 whether those things will be mitigated fully and not to the detriment of the
34 surrounding environment or the town in fact.

35
36 Ms. Russell noted that there is an existing easement there and there is an existing
37 BCDC permit specifically for the marsh restoration area, and with or without the
38 project. It's a broader dilemma that the area has not been maintained over the
39 years and it's a problem BCDC is aware of.

40
41 Chair Kellman asked how old that BCDC permit is? A lot of things have happened
42 in that area and maybe there's a permit here and a permit there, but it would
43 behoove the City to have a refresher on biological resources in that area. It might
44 take the form of what happens when the City has a new Marinship Specific Plan or
45 it might take the form of this application, but it's something the City should be
46 aware of.

1
2 **Commission Discussion concluded.**

3
4 **3. PLANNING COMMISSION RULES AND PROCEDURES**

5
6 **Memo from Community Development Director. Information Only.**
7 **No Action Required.**

8
9 Community Development Director Graves noted that he has provided the
10 Commission with a copy of the most recent Planning Commission rules and
11 procedures. Because of staffing shortages in the department, they haven't
12 submitted any proposed changes to the document as yet, but staff will be
13 considering those based on research and on the recommendations of the
14 Commission.

15
16 Chair Kellman suggested the election of a chair and vice chair be delayed until
17 there is a full Commission seated

18
19 Commissioner Bair suggested for future discussion that the section on quorum be
20 clarified to include that if you have just a bare quorum you need a unanimous vote.
21 Additionally, there is some confusion about the terms and mid-terms, which results
22 a clustering of turnovers.

23
24 Chair Kellman said regarding quorum, there's been an issue of what a 2-1 vote
25 does; what is that based on again?

26
27 Mr. Graves said that's in the municipal code.

28
29 Chair Kellman asked if that's something that can be amended?

30
31 Mr. Graves said yes, staff has brought that to the attention of the City Manager.

32
33 Commissioner Bair said one of the things they're looking at, as is staff, is trying to
34 move projects through quicker. He's guessing this provision is a historical holdover
35 when people were gaming the system about when they wanted to present a
36 project.

37
38 Chair Kellman said they talked earlier about having somebody volunteer on the
39 public safety facilities facility.

40
41 Mr. Graves said one of the conditions of approval when the Public Safety Facilities
42 were approved was that the project should be reviewed by the Planning
43 Commission pertaining to landscaping and lighting and paving, and staff is
44 reviewing those plans right now. They are on an extremely tight, aggressive time
45 schedule because the bids for those plans will be released later this month. He is
46 asking the Commission to appoint a representative to work with staff in reviewing

1 these plans to make sure they're consistent with the Commission's vision for the
2 police and fire station with respect to lighting, paving and landscaping. It would be
3 best to have a commissioner who participated in the review of the project.

4
5 Chair Kellman said she'll do it.

6
7 **ADJOURNMENT**

8
9 **Vice Chair Keller moved, seconded by Commissioner Bair, to adjourn the**
10 **meeting. The next Planning Commission meeting is July 23, 2008.**

11
12 Respectfully submitted,

13
14 Tricia Cambron
15 Minutes Clerk

16
17
18 I:\CDD\Plan Comm\Minutes\2008\07-09-08-Approved