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SAUSALITO PLANNING COMMISSION
Wednesday, December 14, 2011
Approved Summary Minutes

Call to Order

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

Present: Chair Stafford Keegin, Vice Chair Joan Cox (arrived prior to action on Item 1), Commissioner Richard Graef, Commissioner Bill Werner

Absent: Commissioner Stan Bair

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

Approval of Agenda

Commissioner Werner moved and Commissioner Graef seconded a motion to approve the agenda. The motion passed 3-0.

Public Comments on Items Not on the Agenda

None.

Approval of Minutes

September 24, 2008 November 30, 2011

Commissioner Werner moved and Commissioner Graef seconded a motion to approve the minutes of September 24, 2008 as amended. The motion passed 3-0.

Chair Keegin moved and Commissioner Graef seconded a motion to approve the summary minutes of November 30, 2011 as amended. The motion passed 3-0.

Public Hearings

Declarations of Public Contacts

None.

1. **DR/TRP/EA 11-196, Design Review Permit, Tree Removal Permit, Encroachment Agreement, Jensen-Komer, 38 Lower Crescent Avenue.**
Design Review Permit to construct a new single-family residence with a two-car parking deck at 38 Lower Crescent Avenue (APN 065-231-32); a Tree Removal Permit to remove five protected trees; and an Encroachment Agreement to construct a portion of the driveway, parking stalls and parking deck with guardrail in the Lower Crescent Avenue public right-of-way. Continued from November 30, 2011 meeting.

The continued public hearing was re-opened.

1 The public testimony period was opened.

2
3 The public made no comments.

4
5 **Vice-Chair Cox joined the meeting.**

6
7 The public testimony period was closed.

8
9 **Chair Keegin moved and Commissioner Werner seconded a motion to approve**
10 **the staff resolution setting forth the Conditions of Approval as identified at the**
11 **November 30, 2011 meeting with respect to the Design Review Permit, Tree**
12 **Removal Permit and Encroachment Agreement. The motion passed 4-0.**

13
14 The public hearing was closed.

15
16 **CALL TO ORDER – JOINT MEETING WITH THE HISTORIC LANDMARKS BOARD**

17
18 Chair Pierce called the joint meeting of the Historic Landmarks Board (HLB) to order at
19 6:40 p.m..

20 Present: Chair Morgan Pierce, Secretary Vicki Nichols,
21 Board Member John Flavin

22 Absent: Board Member Carolyn Kiernat
23

24
25 **Approval of Agenda**

26
27 **Board Member Nichols moved and Board Member Flavin seconded a motion to**
28 **approve the HLB agenda. The motion passed 3-0.**

29
30 **Public Comments on Items Not on the HLB Agenda**

31 None.

32
33 **Approval of HLB Minutes**

34 None.

- 35
36 **2. DR/SP/MUP/SDEP, Design Review Permit, Sign Permit, Minor Use Permit,**
37 **Sidewalk Dining Encroachment Permit, Silva Trust, 739 Bridgeway**
38 **Avenue.** Design Review Permit to allow modifications to the exterior of the
39 building; a Sign Permit to allow the installation of a new sign; a Minor Use
40 Permit to allow outdoor dining both on private property and in the public right-of-
41 way; a Sidewalk Dining Encroachment Permit to allow outdoor dining in the
42 public right-of-way; and a modification of an existing Encroachment Agreement
43 to allow for reconfiguration of landscape planters and an awning located in the
44 public right-of-way at 739 Bridgeway (APN 065-133-19).
45

46 The public hearing was opened.

47
48 Associate Planner Burns presented the Staff Report.

49
50 Commission questions and comments to staff:

- 1 • Does the Encroachment Agreement run with the property or is it specific to the
2 establishment? *Staff responded an Encroachment Agreement is similar to a*
3 *Conditional Use Permit where it runs with the land.*
4

5 Presentation was made by Anthony Fish of Arcanum Architecture, the applicant.
6

7 HLB questions to Mr. Fish:

- 8 • Do you still intend to paint the man door on the right of the façade, which is the
9 entrance to the upstairs apartment, in a lesser, lighter value of the façade color
10 to make it recess, as you indicated in the study session? *Mr. Fish responded*
11 *yes, that is what they would prefer to do.*
12 • Is the only thing regarding landscaping in the Conditions of Approval the
13 planter boxes, as opposed to foliage on the front of the building that had been
14 suggested initially? *Mr. Fish responded that is correct, only the planters.*
15

16 Comments were made by the public.
17

18 Paul Ronin, Edward Avenue, indicated the following:
19

- 20 • This project would be a great addition to Sausalito.
21 • Where the planters are now, they are not only in the public right-of-way but
22 also in the handicap ramp.
23

24 Commission comment:

- 25 • The handicap ramp complies with all of the handicap regulations as it exists. It
26 is the absolute minimum ramp and was rebuilt a couple of years ago because a
27 standard ramp was there and what was approved for Piccolo Teatro
28 encroached on that ramp and made it illegal. Hence, it had to be reconstructed
29 to what we see today.
30

31 Dorothy Gibson, Johnson Street, indicated the following:

- 32 • She is in favor of the restaurant, but hates the planters. They are in the middle
33 of the sidewalk and are obstacles to the pedestrian traffic pattern. She does not
34 understand why they were approved and does not think they should be there.
35

36 Applicant rebuttal.
37

38 Larry Mindel indicated the following:

- 39 • The outdoor dining aspect that has been there for four years is part of what
40 made this project attractive. They hired a well-known ADA consultant to inspect
41 the property to ensure that they are in conformance with ADA regulations,
42 starting with the curb, and they are in conformance.
43 • He also talked to the City regarding the curb.
44 • Having a barrier of some kind there is of assistance because the ramp that
45 crosses the street dies at the planter location where wheelchairs go left or right
46 and there is a little curb there. Were it not for the planters people walking up
47 and down the street would trip because they could not see the curb.
48 • Having attractive and well-maintained terra cotta planters full of fresh flowers
49 that change seasonally and often will make Bridgeway even more attractive.
50

1
2 The public testimony period was closed.

3
4 HLB comments:

- 5 • The applicant has made modifications that will work in concert with the tenets
6 of the Historic Overlay District and have done a reasonable job in addressing
7 challenges that occur within the streetscape.
- 8 • The addition of Copita to the Historic District and the downtown area is an
9 improvement that will add vitality to the area. This is a very visible and
10 prominent site with a historic building.
- 11 • The change to the awning is an improvement in that it uncovers the transom, a
12 very important historical element in the downtown.
- 13 • The sign is very appropriate for the style of the façade. The concept of halo
14 lighting is very attractive and fun.

15
16 Commission comments:

- 17 • The awning reconfiguration is good in that it exposes the transom.
- 18 • The sign is appropriate.
- 19 • The condition of no foliage on the building is appropriate.
- 20 • The sign is quite modest compared to Wells Fargo and other signs along the
21 street.

22
23 Additional Condition of Approval:

- 24 • The applicant shall seek permission from the landlord to paint the man door
25 entrance to the upstairs apartment a lesser, lighter value of the proposed
26 façade color.

27
28 **HLB Member Nichols moved and Board Member Flavin seconded a motion to**
29 **approve a Design Review Permit and Sign Permit for 739 Bridgeway Avenue**
30 **subject to the additional Condition of Approval. The motion passed 3-0.**

31
32 **Vice-Chair Cox moved and Commissioner Werner seconded a motion to approve**
33 **a Design Review Permit and Sign Permit for 739 Bridgeway Avenue subject to the**
34 **additional Condition of Approval. The motion passed 4-0.**

35
36 Commission comments on the Minor Use, Sidewalk Dining Encroachment Permit, and
37 modifications of the previously-approved Encroachment Agreement:

- 38 • Section 10.44.220.D limits outdoor tables on private property to five tables.
39 Although this site is partially on private property and partially in the public right-
40 of-way the Zoning Ordinance was not written to allow more tables encroaching
41 in the public right-of-way than on private property. The configuration that was
42 initially approved for this property more favorable because it has the potential
43 to encroach less in the public right-of-way with five tables in single file than two
44 rows of three tables.
- 45 • Mr. Ronin and Ms. Gibson are correct in that the planters are an obstruction. In
46 fact it is a hazard. The application submitted four years ago for Piccolo Teatro
47 did not show the ramp and made the sidewalk look like there was plenty of
48 room. Once the business was open this property began to suffer from
49 encroachment creep and the tables and planters shifted out toward the curb,
50

1 occupying more than 50-percent of the sidewalk and making the ramp that was
2 there illegal. The owners then tore up the sidewalk and reconfigured it so that
3 the inside curb that is approximately 6 feet, 3 inches from the building wall was
4 built so that the planters could sit on it and their encroachment would become
5 legal by virtue of the fact that the curb ramp that was put in there is, according
6 the Caltrans, one of the legitimate kinds of handicap ramps. It is the absolute
7 bare minimum for a handicap curb sidewalk ramp. They figured out how to gain
8 the most sidewalk occupancy by the private sector and leave the least for the
9 public, and the City was complicit in allowing it to happen. It is bad public
10 policy.

- 11 • Six tables outside are fine. The problem is with the crowding of the sidewalk
12 with the ramp right there. There is not a solution that is not radical and
13 expensive.
- 14 • The Encroachment Agreement and Encroachment Permit contemplated some
15 flexibility for more or fewer seats within reason, so six tables instead of five is
16 okay.

17 The public testimony period was re-opened.

18
19 Ester Swig, Wolfback Ridge, indicated the following:

- 20 • The Commission's picking apart of minutia is frustrating. The ramp is compliant
21 and goes along with the rules according to Caltrans.
- 22 • Regarding the tables, the Commission is making it so onerous that businesses
23 will stop wanting to do business in Sausalito. An extra table can make a big
24 difference to a restaurant.
- 25 • It is wonderful that Mr. Mindel wants to open another restaurant in Sausalito
26 and it is a shame he is being made to jump through such hoops to do it.

27
28 Susan Fletcher indicated the following:

- 29 • She is in favor of the project. What Mr. Mindel did with Poggio changed the
30 face of Sausalito. This particular location will add so much to the City with the
31 outdoor seating. They do need to have the six tables out there.
- 32 • She has seen handicapped people using the sidewalks in that area. The ramp
33 works.

34
35 Rubin Glickman, San Francisco, indicated the following:

- 36 • He comes to Sausalito frequently to patronize Poggio restaurant.
- 37 • He spent nine years in San Francisco's Redevelopment Agency and
38 understands the issues presented by this project and that it is necessary for the
39 Commission to ask their questions. But the economy today is so difficult that
40 people who are willing to spend money on businesses should be assisted in
41 any way possible. This location was not successful, but Mr. Mindel is a
42 successful operator and is willing to put up the money. It is very important that
43 the Commission support his effort.

1 Larry Mindel indicated the following:

- 2 • He inherited the ramp problem and wants to improve it any way possible, but a
- 3 representative from ADA indicated the curb has to be there.
- 4 • Five tables across would inhibit the access of wheelchairs going through the
- 5 front door, so they have three and three. This is a very small 45-seat restaurant
- 6 that has difficult economics. They desperately need those 12 outside seats;
- 7 losing them would be a deathblow
- 8

9 Morgan Pierce, Curry Lane, indicated the following:

- 10 • He noticed on the map there is a redundancy of crosswalks in the immediate
- 11 vicinity and wonders if it is possible for the one that dead ends into this
- 12 restaurant to be eliminated, and if so, would that solve the problem?
- 13

14 The public testimony period was closed.

15 Commission comment:

- 16 • This encroachment on the sidewalk and the way it was done is fundamentally
- 17 wrong, but it exists and Mr. Mindel inherited it. It will be enhanced aesthetically
- 18 by what is being done and there is no choice but to approve the two permits
- 19 and the modification.
- 20
- 21
- 22

23 **Vice-Chair Cox moved and Commissioner Werner seconded a motion to approve**

24 **a Minor Use Permit, a Sidewalk Dining Encroachment Permit and design**

25 **modifications to a previously approved Encroachment Agreement for 739**

26 **Bridgeway Avenue. The motion passed 4-0.**

27

28 The public hearing was closed.

- 29
- 30 **3. DR/SP/SDEP/EA 11-331, Design Review Permit, Sign Permit, Sidewalk**
- 31 **Dining Encroachment Permit, Encroachment Agreement, McManus, 670**
- 32 **Bridgeway.** Design Review Permit and Sign Permit to allow for a projecting
- 33 sign as well as an awning with an awning sign that will be located in the public
- 34 right-of-way; a Minor Use Permit and a Sidewalk Dining Encroachment Permit
- 35 to allow for outdoor dining in the public right-of-way; and an Encroachment
- 36 Agreement for a projecting sign and an awning to encroach into the Bridgeway
- 37 public right-of-way fronting 670 Bridgeway (APN 065-133-10).
- 38

39 The public hearing was opened.

40 Associate Planner Burns presented the Staff Report.

41 HLB questions to staff:

- 42 • According to the Staff Report we can approve the sign as long as it is three
- 43 feet? *Staff responded that is correct. If the applicant decides to comply with the*
- 44 *sign regulations then the Planning Commission and HLB can approve the sign*
- 45 *at this meeting without having it come back for review of the smaller sign. If the*
- 46 *Planning Commission and HLB decide that the larger sign could be supported,*
- 47 *then the item would need to be continued to a date certain to allow for the*
- 48
- 49
- 50

1 *noticing of a variance and the variance findings would need to be approved by*
2 *the Planning Commission.*

3
4 Commission questions to staff:

- 5 • Are the three tables on the existing floor plan the three tables that the applicant
6 is proposing? *Staff responded yes. The project site is not currently approved to*
7 *have outdoor dining, although it does have it, so although the plan shows the*
8 *tables as existing they are actually proposed.*
- 9 • Are these tables restricted under the application with respect to how far up on
10 the street they are? *Staff responded yes, they would be required to be in the*
11 *exact location shown on the plan, and also they need to comply with specific*
12 *standards that are identified in the Staff Report as well as the Conditions of*
13 *Approval. They need to maintain 48 inches for accessibility and additional*
14 *chairs cannot be added.*

15
16 The public testimony period was opened.

17
18 Presentation was made by Eric Long of Don Olsen and Associates, the applicant.

19
20 HLB question to staff:

- 21 • Does the existing sign meet the ordinance or is there a variance for the size of
22 that sign? *Staff responded when the sign was approved there were no sign*
23 *regulations with maximum sign area requirements. The existing sign projects*
24 *out six feet, while the current standard is three feet, and exceeds the six*
25 *square foot allowance, but the applicant has designed the new sign to comply*
26 *with the six square foot sign regulation.*

27
28
29 Commission question of Eric Long:

- 30 • The three-foot projection is one limitation. There is no vertical limitation as long
31 as you are within the six square feet. Do you have to use a round wine barrel
32 bottom? Could you use an oval shaped one? *Mr. Long responded he does not*
33 *know if round is the style his clients want to stay with.*

34
35 The public made no comments.

36
37 The public testimony period was closed.

38
39 HLB comments:

- 40 • The design of the awning is a real plus. The ability to retract the awning opens
41 up the transom and adds light and activity.
- 42 • Everything that has been recommended, excluding the projecting sign, can be
43 approved by the HLB at this meeting.

44
45 Commission comments:

- 46 • The Commission agrees with comments of the Historic Landmarks Board.
- 47 • The awning as presently configured is somewhat overbearing at times, so it is
48 good it has the ability to retract.

- The retractable awning is valuable because it enhances that last remnant of the old brick warehouse structures that were on that street that have the iron star shaped plates.
- The awning is not designed to fit within the window configuration. It extends a little bit beyond it and encroaches on the decorative panels on either end of the building, which is unfortunate and does not need to happen.
- The rather narrow face of the awning and the fact that the letters appear crowded is unfortunate typographic problem that could be eased by making the face of the awning slightly larger or reducing the size of the letters.
- The scale of the projecting sign is not inappropriate and out of scale for that building and a Variance could be granted for it.

The public testimony period was re-opened.

Eric Long indicated the following:

- The reason the retractable awning is the width it is is because they plan to eventually expose all of the brick and remove the side panels. The façade will be entirely brick. They can bring the awning in to meet the fenestration of the façade, but they want to allow the awning to cap it. However they could move it in if it is an issue.

The public testimony period was closed.

Commission comment:

- Knowing that those side panels may go away, it would be good to see the strength of the brick go up unencumbered by the awning.

Additional Condition of Approval:

- The awning shall extend no further than the fenestration lines on the facade.

Board Member Flavin moved and Chair Pierce seconded a motion to approve a Design Review Permit and a Sign Permit for an awning at 670 Bridgeway Avenue subject to the additional Condition of Approval regarding the awning. The motion passed 3-0.

Vice-Chair Cox moved and Commissioner Werner seconded a motion to approve a Design Review Permit and a Sign Permit for an awning at 670 Bridgeway Avenue subject to the additional Condition of Approval regarding the awning. The motion passed 4-0.

Commissioner Werner moved and Vice-Chair Cox seconded a motion to approve a Minor Use Permit and Sidewalk Dining Encroachment Permit to allow outdoor dining, and to recommend City Council approval of an Encroachment Agreement for an awning (excluding the projecting sign) to extend into the public right-of-way at 670 Bridgeway. The motion passed 4-0.

1 **Vice-Chair Cox moved to continue the hearing for the Encroachment Agreement**
2 **for the projecting sign to the joint meeting of the Planning Commission and HLB**
3 **on January 4, 2012. The motion died for lack of a second.**
4

5 The public hearing was closed.
6

7 **4. DR/CUP 11-311, Design Review Permit, Conditional Use Permit, McDevitt**
8 **Enterprises LP, 30 El Portal.** Design Review Permit to allow for exterior
9 modifications to a building located in the Downtown Historic Overlay Zone
10 District and a Conditional Use Permit to allow the conversion of a residential
11 unit into two hotel rooms at the Inn Above Tide hotel located at 30 El Portal
12 (APN 065-133-19).
13

14 The public hearing was opened.
15

16 Associate Planner Burns presented the Staff Report.
17

18 Commission question to staff:
19

- 20 • If the Condition of Approval as amended is for non-storm water discharged
21 during construction, what happened to the storm water? Is a storm water
22 discharge condition needed as well? *Staff responded no, the site is designed to*
23 *provide adequate storm water discharge. This is during construction for*
24 *painting, et cetera, so those materials do not go into the storm water.*
25

26 The public testimony period was opened.
27

28 Presentation was made by Michael Rex, the applicant.
29

30 The public made no comments.
31

32 The public testimony period was closed.
33

34 HLB comments:
35

- 36 • Mr. Rex presented the project to the HLB at its last meeting. The HLB felt the
37 modifications being made were consistent aesthetically and compositionally
38 with the nature of the existing building. It would make an improvement and not
39 be detrimental to any views.
40 • Mr. Rex has succeeded in cleaning up some past elements that are not
41 attractive.
42

43 **Chair Pierce moved and Board Member Flavin seconded a motion to approve a**
44 **Design Review Permit for 30 El Portal as amended in Condition of Approval 8. The**
45 **motion passed 3-0.**
46

47 **Vice Chair Cox moved and Commissioner Werner seconded a motion to approve**
48 **a Design Review Permit for 30 El Portal as amended in Condition of Approval 8.**
49 **The motion passed 4-0.**
50

1 **Vice Chair Cox moved and Chair Keegin seconded a motion to approve an**
2 **amendment to a Conditional Use Permit for 30 EI Portal. The motion passed 4-0.**
3

4 The public hearing was closed.
5

6 **Board Member Flavin moved and Board Member Nichols seconded a motion to**
7 **adjourn the Historic Landmarks Board meeting. The motion passed 3-0.**
8

9 **5. TM/CCP 11-170, Tentative Map, Condominium Conversion Permit,**
10 **Hammond, 410 Johnson Street.** Tentative Map and Condominium Conversion
11 Permit to convert an existing single-family residence and duplex into three
12 condominiums at 410 Johnson Street (APN 065-056-05).
13

14 The public hearing was opened.
15

16 Associate Planner Schinsing presented the Staff Report.
17

18 Commission question to staff:
19

- 20 • Are the electrical utilities currently undergrounded, and if not, is that a
21 condition? *Staff responded the duplex unit in the back has been*
22 *undergrounded. The single-family residence at the front has not been*
23 *undergrounded, but Condition of Approval 4 would require it.*
24

25 The public testimony period was opened.
26

27 Presentation was made by Cris and Linda Hammond, the applicants and owners.
28

- 29 • Regarding Conditions of Approval 7 and 9:
 - 30 ○ The language in both conditions is that prior to recordation of the final
31 minor subdivision the project shall adhere to all recommendations in the
32 physical elements and geotechnical report. The physical elements report
33 contains structural elements that are important for the property and
34 wellbeing of the people there and they have already addressed most all of
35 those. There are other things mentioned in that report however, such as
36 the older house will need a new roof in two or three years. They are
37 budgeting to do that, but they would like to be able to consider it
38 maintenance rather than something that has to be done right at the
39 moment as a condition.
 - 40 ○ They hope they can change the language of the two conditions that also
41 talks about water control and runoff from the storm gutters. They have
42 already taken those recommendations into account and have the water
43 from the roof gutters directed through pvc piping away from the
44 foundation. However there is one part of the condition that mentions
45 grading the lot to ensure that water runs off. He would like to work with the
46 City Engineer and Building Inspector and get their opinion first.

47 The public testimony period was closed.
48
49
50

1 Commissioner Werner moved and Vice-Chair Cox seconded a motion to approve
2 a Tentative Map and Condominium Conversion Permit for 410 Johnson Street
3 subject to the modifications to Conditions of Approval 7 and 9. The motion
4 passed 4-0.
5

6 The public hearing was closed.
7

8 **Old Business** – None
9

10 **New Business** – None
11

12 **Staff Communications**

- 13 • At their meeting on December 13, 2011 the City Council took up the first phase of
14 the Omnibus Municipal Code Amendments and approved most of them. The
15 Council pulled three items for further consideration.
- 16 • Staff met on December 14, 2011 with Legislative Committee members Leone
17 and Weiner to begin the next phase of the Omnibus Municipal Code
18 Amendments. It is anticipated it will be at least two months before the Legislative
19 Committee releases the next batch of amendments for the Planning Commission
20 to begin holding study sessions on.
21


22
23 **Planning Commission Communications**

- 24 • The Housing Element Task Force held its community workshop in which
25 members of the community formed groups to discuss some of the implementation
26 measures. The Task Force has asked the consultant to return for their next
27 meeting on December 19, 2011 because the consultant proposed a number of
28 modifications to existing implementation measures as well as the creation of new
29 measures and policies that do not currently exist in the Zoning Ordinance for the
30 Housing Element. The Task Force requested that the consultant identify by group
31 which measures are required for the Housing Element, which are recommended
32 and which are optional. The Task Force will then evaluate the proposed
33 measures at their next meeting and hopefully finalize the inventory along with
34 figuring out how they will meet their residency requirements. The Task Force will
35 then meet once or twice in January 2012 and will report its progress to the
36 Planning Commission.
37

38 **Vice-Chair Cox moved and Chair Keegin seconded a motion to adjourn the**
39 **meeting. The motion passed 4-0.**
40

41 **Adjournment** – The meeting was adjourned at 9:44 p.m.
42

43
44 
45 _____
46 Submitted by
47 Jeremy Graves, AICP
48 Community Development Director

49
50 

Approved by
Stafford Keegin
Chair

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