

SAUSALITO PLANNING COMMISSION
Wednesday, October 17, 2012
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, Commissioner Stan Bair
Commissioner Richard Graef, Commissioner Bill Werner

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

Election of Officers

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

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

Approval of Agenda

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

Chair Cox indicated the joint meeting with the Historic Landmarks Board (HLB) would not be held since the HLB did not have a quorum for the joint meeting. As a result, the Planning Commission would continue with its regular meeting for the evening.

Community Development Director Graves indicated that as staff to the Historic Landmarks Board he would adjourn the HLB meeting to a special joint meeting of the Planning Commission and HLB at 5:30pm on October 22, 2012 in the City Council chambers.

Vice-Chair Werner moved and Commissioner Graef seconded a motion to continue the public hearings for Items 1, 2, and 3 to the special joint meeting of the Planning Commission and HLB on October 22, 2012. The motion passed 5-0.

Vice-Chair Werner and Commissioner Bair indicated they would not be present at the special meeting on October 22, 2012.

1 **Public Comments On Items Not on the Agenda**

2 None.

3
4 **Approval of Minutes**

5 October 2, 2012

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7 **Commissioner Bair moved and Commissioner Keegin seconded a motion to**
8 **approve the summary minutes as amended. The motion passed 5-0.**

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10 **Public Hearings**

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12 **Declarations of Planning Commissioner Public Contacts**

13 None.

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15 **4. DR/CUP 12-048, Design Review Permit, Conditional Use Permit, Dana**
16 **Galante Trust, 30 Excelsior Lane.** Design Review Permit to demolish an
17 existing 800 square foot carport and construction of two apartments located
18 above a four-car garage. In addition, a single-story garage is proposed at the
19 northeast corner of the property. A Conditional Use Permit to allow the proposed
20 parking spaces to be located in tandem, one behind the other. The project site is
21 located at 30 Excelsior Lane (APN 065-071-22).
22

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24 **Community Development Director Graves indicated the applicant had requested**
25 **the public hearing for 30 Excelsior Lane be continued to a date uncertain.**

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27 **Vice-Chair Werner moved and Commissioner Graef seconded a motion to**
28 **continue the public hearing for 30 Excelsior Lane to a date uncertain. The motion**
29 **passed 5-0.**

- 30
31 **5. CDD 12-262, Zoning Ordinance Interpretation, City of Sausalito.** Planning
32 Commission interpretation of criteria for Design Review Permits in Zoning
33 Ordinance Section 10.54.050.6 (Design Review Permits).
34

35 The public hearing was opened.

36
37 Assistant Planner Schinsing presented the Staff Report.

38
39 Commission question to staff:

- 40
 - Subsection A requires a Design Review Permit if more than 300 square feet of
- 41 new building coverage is added by a project. Where does the figure of 300
- 42 square feet come from? What is the rationale for that figure? *Staff responded*
- 43 *the City has used that figure for at least nine years.*
- 44

45 The public testimony period was opened.

46
47 Dennis Key, Key Architecture, indicated the following:

- 48
 - Rules that are not clear can cause real problems for people starting a project.
- 49
 - He urges the Commission to endorse staff's proposed interpretation.
- 50

Corey Maas, 130 Currey Avenue, indicated the following:

- He is the homeowner who hired Mr. Key. He has a limited budget and Mr. Key has designed a project to stay within the budget.

The public testimony period was closed.

Commission questions to staff:

- Is it a matter of interpretation or instead a matter to go to the City Council, because it would be changing an ordinance in which a 300 square foot demarcation line was set by the legislative body? Can the Commission broadly interpret it otherwise? *Staff responded it is not a matter of changing the ordinance but looking at a situation where someone could have done 600 square feet of interior or understory work without needing a Design Review Permit. The minute they went to 301 square feet they needed a Design Review Permit, but they could have put 300 square feet outside without a Design Review Permit. So the previous interpretation was brought in to question and did not make sense to staff.*
- Cannot the City Council decide that there will be a demarcation line that happens to be 300 square feet, and if it is 301 square feet one is on one side of the regulation and if it is 300 square feet or less one is on the other side? All throughout this ordinance there are those kind of demarcation lines. How is this different? *Staff responded they are not changing the demarcation. City Council passed this language a long time ago and it was handed down to staff. Mr. Key decided that did not make sense. Staff then came to believe they had been misreading the key words of 'where the addition will add new building coverage' to be "where the addition will add any new building coverage" but now believes "will add building coverage" pertains to the 300 square feet that is in the first line of Subsection A and that this merits review by the Planning Commission. Staff is not changing wording but changing how it is applied and viewed.*

Commission comments:

- Subsection A says, "Will add new building coverage." Subsection B says, "Will not add any new building coverage." If the drafters had intended Subsection A to be interpreted as meaning will add any new building coverage it would have been written "will add any new building coverage," because that is the way Subsection B was written.
- The two subsections are mutually separate. One of them addresses the notion of additional coverage and the other says if there is no additional coverage there is more flexibility. That is how it was intended originally. This is an example of over-thinking the problem and complicating. If it were being rewritten it should say, "Any increase in building coverage requires Design Review." It is not true that the interpretation staff has given in the past is internally inconsistent, as suggested by Mr. Key.
- It is not that 300 square feet of new coverage is too much but the fact that any is allowed. There is a sliding scale based on an arbitrary number of 300 square feet to begin with creates these kind of issues.

- The issue before the Commission tonight is does the Commission wish to adopt a different interpretation from the one that staff has historically utilized, or does the Commission want to instruct staff to come back with an amendment that would not allow any new building coverage without Design Review by inserting the word “any” into Subsection A?
- It should not be necessary to have a Design Review Permit required for smaller projects if that is what 300 square feet was aimed at. If staff feels their new interpretation is better and will facilitate smaller projects moving through the process in a manner that addresses their issues and addresses the City’s interest in it, then that is fine.

Commission question to staff:

- How often has this issue come up and affected projects since 2003? *Staff responded several per year.*

Commission comments:

- The interpretation proposed by staff seems to make sense.
- The determinations under Subsection A and Subsection B are mutually exclusive. They have been handled in that fashion in the past. Just because an issue is raised about one square foot making a major difference is not reason enough to reinterpret the whole thing.
- The logic for the prior interpretation is that when one has an additional structure outside of an existing structure there is more potential to impact the neighbors.
- Staff’s interpretation changes the limitations of Subsection B, which says, “will not add any new building coverage.”
- One can do 300 square feet outside, but then if there is one foot sticking into the existing residence a Design Review Permit is triggered. That is the sort of thing that gets people irritated at the Zoning Ordinance.

The public testimony period was reopened.

Dennis Key, Key Architecture, indicated the following:

- The Zoning Ordinance sets up criteria where staff can look at smaller projects that do not need a Design Review Permit. It is limited to 300 square feet, because there should not be more than that in bulk and mass. With the limits that are on the books right now there could be a lot more addition as long as it does not create that bulk and mass. If someone wants to do an addition that stretches those limits they are better off putting all on the outside than anything on the inside, because as soon as they do that it triggers these other requirements.
- Mr. Maas is trying to stay within the guidelines of the bulk and mass set forth by the code, but it is confusing and makes no sense.
- Subsection B is confusing. It does not make sense to do an addition that is either Subsection A or Subsection B because there is usually some sort of overlap. To control the bulk and mass when there is overlap is the intent and staff’s interpretation clarifies that. He tried to do that initially but got caught up in the language and it messed up his project. He was not trying to get away

1 with anything, he was just trying to follow the rules and understand what is
2 allowed.

- 3 • Going through Design Review could amount to not only a couple of thousand
4 dollars more for the fee, but there would be more requirements for submittal,
5 the whole process and the time limits that staff has to process it, Planning
6 Commission meetings, all of which could easily add over \$10,000 to a small
7 project and kill it.
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10 Corey Maas, 130 Currey Avenue, indicated the following:

- 11 • He is a 20-year resident of Sausalito.
- 12 • He considered moving from Sausalito when he had two children because of the
13 schools, but decided to stay and improve his property and send his children to
14 private schools.
- 15 • This project allows enough space in his modest home for his children to have a
16 playroom. It conforms to the Zoning Ordinance as written. He wants to keep
17 the project within a budget he can handle. The interpretation is clear and that is
18 how they designed it. He now needs to make a decision about moving ahead
19 on a project that is needed by his family or moving out of Sausalito. A year is a
20 long time for a small project less than 600 square feet.

21
22 Michael Rex, architect, indicated the following:

- 23 • He is interested in this issue because he has to apply this ordinance on a
24 regular basis.
- 25 • When there are questions about the ordinance he goes back to the original
26 intent, which was a way to simplify the approval process, particularly for small
27 projects. The intent has been if one stays inside their building envelope they
28 can build 600 square feet without Design Review, but if they go outside the
29 envelope they can only add 300 square feet. It creates a threshold and trigger
30 and tries to discourage people from going outside their building envelope by
31 doubling the entitlement if they stay inside it.
- 32 • They have all interpreted Subsection A to mean any building coverage. There
33 is no half building coverage. It is either added or not, whether it is one foot, ten
34 feet, or 300 feet. If one goes to the intent it should stay the way it is, because
35 they want to encourage people to not build outside their building envelope.
- 36 • This new interpretation means now people can add another 300 square feet
37 inside. Now they get 600 square feet, half in and half out, almost doubling the
38 entitlement.
- 39 • Subsection A cannot be changed the way it is proposed without changing
40 Subsection B, because Subsection B says you get 600 square feet if there is
41 no coverage. Now there is up to 300 square feet of coverage, plus the 300
42 square feet inside. Now you get 600 square feet when there is coverage. Now
43 there is a conflict between Subsection A and Subsection B. If Subsection A is
44 changed, then Subsection B must be changed also.
- 45 • Staff's interpretation changes the intent and he would not support it.
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47

48 The public testimony period was closed.
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Staff comment:

- Perhaps the examples staff has used to exemplify the workings of Subsection A and Subsection B together are incorrect and should be given more thought before the Planning Commission makes a motion to turn down the interpretation.

Vice-Chair Werner moved and Commissioner Keegin seconded a motion to continue the public hearing regarding Zoning Ordinance Interpretation to a date uncertain. The motion passed 4-1 (No – Bair).

The public hearing was closed.

- 6. ZOA 12-264, Zoning Ordinance Amendment/Design Review Permit, City of Sausalito.** Amendment of Sections 10.54.040.B and 10.54.050.B of the Zoning Ordinance to allow City guardrail projects to be reviewed and approved by the Community Development Department with an Administrative Design Review Permit.

Vice-Chair Werner moved and Commissioner Bair seconded a motion to continue the public hearing regarding Zoning Ordinance Amendment to the meeting of November 14, 2012. The motion passed 5-0.

Old Business – None

New Business – None

Staff Communications -- At the City Council October 9, 2012 meeting:

- Council adopted the General Plan Amendment for the Housing Element Update.
- Council heard a detailed Staff Report on the Accessory Dwelling Unit Regulations, but because only three Council members were at the meeting the first reading of the Accessory Dwelling Unit Ordinance was postponed to the October 23, 2012 meeting.

By consensus the Planning Commission canceled its October 31, 2012 meeting.

Vice-Chair Werner moved and Commissioner Graef seconded a motion to adjourn the meeting. The motion passed 5-0.

Adjournment

The meeting was adjourned at 7:36 p.m.

Submitted by
Jeremy Graves, AICP
Community Development Director

Approved by
Joan Cox
Chair

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