

SAUSALITO PLANNING COMMISSION
Wednesday, April 24, 2013
Approved Summary Minutes

Call to Order

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

Present: Chair Joan Cox, Vice-Chair Bill Werner, Commissioner Stan Bair, Commissioner Richard Graef, Commissioner Stafford Keegin

Staff: Community Development Director Jeremy Graves
Associate Planner Heidi Scoble, Contract Planner Rafael Miranda,
City Attorney Mary Wagner

Approval of Agenda

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

Public Comments On Items Not on the Agenda

None.

Approval of Minutes

April 10, 2013

Vice-Chair Werner moved and Commissioner Graef seconded a motion to approve the summary minutes. The motion passed 5-0.

Public Hearings

Declarations of Planning Commissioner Public Contacts

None.

- 1. DR/TRP 12-099, Design Review Permit, Tree Removal Permit, Banon, 115 South Street.** Design Review Permit and a Tree Removal Permit for the new construction of a 3,022 square foot single-family dwelling located at 115 South Street (APN 065-301-05).

The public hearing was opened.

Associate Planner Scoble presented the Staff Report and noted that late mail had been distributed to the Commission.

Questions and comments to staff:

- What is the square footage difference between the duplex and the proposed single-family residence? *Staff responded approximately 1,500 square feet less.*
- When looking at the story poles it appears the setbacks are set further back than the frontage of the next-door home. *Staff responded the story poles were certified. The project is set back 15 feet from the front property line and the requirement is 10 feet. Staff recommends a Condition of Approval for a greater setback or a deed restriction for the driveway.*
- Perhaps the project should be pushed even further back. *Staff responded the proposed project is a 10 foot setback from the façade of 117/119 South Street, and a 15 foot setback from 111 South Street, so they roughly line up with 111 South Street a bit more south than 115 South Street.*
- When you say the parking space is in front, what you mean is that by building on this lot people will not be able to park along the street frontage any longer? *Staff responded that is correct.*

The public testimony period was opened.

Presentation was made by Sven Lavine, the project architect, and Gabriel Banon, project site owner.

- With respect to information that the City might support higher density uses of this neighborhood in the future, the 3,000 square foot, single-family residence they are proposing does not preclude adding an accessory dwelling unit in the future. They have a third parking space and the ability to add another 900 square feet.
- With respect to Mr. Abbassi's concern regarding the elevation of the rail, it appeared their railing was a little higher than discussed, however an error was made in the elevation drawing of Mr. Abbassi's property and their rail is actually lower than shown in the drawing; almost 1 foot lower than Mr. Abbassi had requested. They plan to have the heights certified.

Mike Monsef, 3001 Bridgeway, indicated the following:

- He is speaking on behalf of Dr. Abbassi, the owner of 117-119 South Street.
- There was an agreement between Dr. Abbassi and Mr. Banon regarding the height of the railings. He will submit photographs that show a slight discrepancy.
- Otherwise it is a nice project.

Claire Blotter, 111 South Street, indicated the following:

- She lives next door at 111 South Street and has lived there 8-9 years.
- Her neighborhood is crowded in terms of traffic with vehicles and tourist bicycles. She is concerned with having three parking spaces of cars going in and out. Comparable houses on her street have only two parking spaces.
- Parking is very difficult and she is concerned with three parking spaces being taken from the public domain and given to a private party.
- She does not believe the Coast Live Oak will be able to live with the construction that would take place and how close to the tree the proposed house would be. She suggests the house be moved away from the tree.

- She believes new homes should tread as lightly as possible. The proposed house goes to the edges of what is allowable and would cause privacy issues.

Rebuttal comments by Mr. Lavine and Sean Condrey, project engineer:

- With respect to parking, this project is a reduction of the entitlement they had submitted that was granted in 2008, under which there is no streetfront parking. The current submittal is giving a little bit more back because it creates one streetfront parking space.
- If they were to reduce two garages to one garage it still would not give them enough room to get another space there.
- With respect to the parking issue in terms of setbacks, the house is already set back 15 feet. If it went back another 4 feet the soil off-haul would increase significantly, meaning the numbers of trucks going to and from the site would also increase significantly. The retaining wall height would also increase, meaning more costs for the owner.
- The owner wants to protect the oak tree. They are caught between the setback and the tree. They will put best management practices in place and do their best to not harm the tree.

Commission questions to Mr. Lavine:

- If the third parking garage were eliminated would no additional street parking be gained? *Mr. Lavine responded he believes that is correct. Right now they are proposing an 18-foot space. If one 8-foot garage were eliminated eight feet would be gained, providing 26 feet, which is not enough for two parking spots.*
- You stated it would be feasible to build a 900 square foot unit behind this building. Would one of those three parking spots then be dedicated to that accessory dwelling unit were it to be built, because you are only required to have two parking spots for your primary unit? *Mr. Lavine responded yes.*
- Is it feasible for the 900 square foot ADU to be detached or would it need to be attached? *Mr. Lavine responded he understands it would be detached.*

Staff comment:

- The possible 900 square foot ADU could be attached or detached.

Commission question to Mr. Lavine:

- Do you understand that with a deed restriction you would be precluded from using the driveway for parking, that it could not be used for anything other than access and egress, and that the deed restriction would run with the home and would continue even if the home is sold? *Mr. Lavine responded yes.*

Staff comment:

- Perhaps the deed restriction can be reworded to state that if the owner has a vehicle of 15 feet or less they could parallel park within that area or use the space for parking as long as it does not encroach over the property line into the public right-of-way.

Commission questions to Mr. Lavine:

- Regarding the length of the driveway and the ability to park other cars, have you considered recessing the garage portion and not moving the entire structure? *Mr. Lavine responded yes, they had considered that.*
- How would the site in back for an ADU be accessed for construction after the primary structure is finished? *Mr. Lavine responded if an ADU was built in the back it would have to be a much lower impact than the primary structure, which requires a great deal of soil to be removed. The ADU would need to balance that out in terms of cut-and-fill and a simpler foundation. It would be tricky to get the construction vehicles to the back; likely a crane would be necessary. It would be difficult but there is a 5-foot access on the side and the dwelling would be small, so it is probably doable.*

The public testimony period was closed.

Commission questions to staff:

- The stairway on the east side of the structure comes all the way into the 10-foot special setback zone along South Street. Does that not need a variance because it is a structure by definition in the Zoning Ordinance? *Staff responded as long as the stairs are on grade they meet the requirement for not being included as a structure.*
- How can the stairs be on grade when in fact they seem to require a very tall retaining wall? *Staff responded there might be some exceptions to special setbacks allowed by Chapter 10.40 of the Zoning Ordinance.*

The public testimony period was re-opened.

Commission question to Mr. Lavine:

- Have you looked to this issue regarding the stairway in the special setback? *Mr. Lavine responded it was his understanding it was classified as a non-conforming obstruction that would have to be removed if the roadway were ever widened. The reason the stairway is there is because the site is about as steep as a set of stairs, so if the stairs do not encroach all the way to the front edge it is physically impossible to climb the site.*

Commission comments:

- There is a special 10-foot setback zone along South Street and if it is violated the City will not be able to solve any of the problems being brought up about bicycles, pedestrians, vehicles, fire trucks, etc. that go up that street.
- Without granting a variance the Commission cannot knowingly approve plans that could ultimately deprive someone of access to their home and the applicant has not designed an alternative access plan.

Staff comment:

- There is an exception in Section 10.40.090 of the Zoning Ordinance that states, "The following features may project into the required yards if the applicable height and/or coverage requirements are met: an uncovered stair and necessary landings provided that such stair and landings do not extend

1 above the entrance floor of the building except for railing height compliant with
2 the California Building Code.”

3
4 Commission comment:

- 5 • The exception in Section 10.40.909 does not apply in this case because the
6 entrance level is at the level of the driveway. The proposed stairs are above
7 the entrance level.
8

9 Commission question to Mr. Lavine:

- 10 • You have interior access to the upper levels already. Do you need this other
11 exterior stair? Is it required for egress or something in the code? *Mr. Lavine*
12 *responded they do have access to the rear yard through the house. The*
13 *exterior stair is just an access stair to the rear yard.*
14

15 Staff question to Mr. Lavine:

- 16 • Could the stairs be redesigned to be in compliance with the 10-foot setback?
17 *Mr. Lavine responded it would be difficult but he believes it is possible,*
18 *although a parking space might be lost in the process.*
19
20

21 The public testimony period was closed.

22
23 Commission comments:

- 24 • Unfortunately, when a property is developed sometimes street parking is lost
25 because a curb cut is needed to get the cars in.
26 • It is questionable if there is the one parking spot because there is the curb cut
27 on one side and a fire hydrant on the other side.
28 • The tree preservation plan is the best that can be done to try to maintain the
29 oak tree.
30 • The stairs should be moved back if at all possible.
31 • It is a good project with a good design. It is sited well and has good materials.
32 • The proposed language for the deed restriction with respect to small cars is
33 fine.
34 • The massing for this project looked greater now than it did for the duplex that
35 was approved in 2008.
36 • Even in light of the new regulations presently being drafted for multi-family
37 zoning districts, this project is very close to being in compliance with those new
38 standards and meets the requirement for demonstrating feasibility of another
39 unit on the property.
40 • The deck height issue should be handled as a Condition of Approval.
41 • The deed restriction of the driveway should be added as a Condition of
42 Approval with the caveat that a car could park there so long as it does not
43 encroach on the public right-of-way.
44 • This project should be continued to allow the architect to try to pull the stairs
45 back to the 10-foot setback and ask for a variance if he cannot.
46
47

48 Additional Condition of Approval:

- 49 • The deed restriction of the driveway shall permit a car to park there so long as
50 it does not encroach on the public right-of-way.

Commissioner Werner moved and Commissioner Graef seconded a motion to continue the public hearing for 115 South Street to the meeting of May 15, 2013. The motion passed 5-0.

The public hearing was closed.

2. DR 08-003, Design Review Permit, Puntsag, 147 Edwards Avenue. An amendment of the previously approved Design Review Permit DR 08-003 to allow the after-the-fact relocation of air conditioning condenser units at 147 Edwards Avenue (APN 065-292-04).

The public hearing was opened.

Contract Planner Miranda presented the Staff Report.

Commission question to staff:

- Was the noise testing performed only on the cooling unit and not the heating unit as well? *Staff responded it was only performed on the cooling unit.*

The public testimony period was opened.

Presentation was made by Rich Brunelle, the applicant, and Patrick Faner, sound engineer.

Commission questions to Mr. Faner and Mr. Brunelle:

- Is the noise rating higher or lower for the heating component than for the cooling component? *Mr. Faner responded the noise rating for the heating is rated 2 decibels higher than the cooling component.*
- Did the homeowners use the heat pump this past winter at all? *Mr. Brunelle responded yes, when radiant heat went out. The problem was corrected and they have not used the heat pump since.*

Malcolm Goepfert, 151 Edwards Avenue, indicated the following:

- He lives immediately adjacent to the subject property.
- His major concern is there was no noise testing done during the nighttime hours, the period of time with the lowest ambient noise. He does not believe the noise study substantiated the claim that these units are in compliance because they did not test during that period of time.
- The noise report lists a range of ambient noises. The lowest measurement is noted in the report as a point specific, not the range, so it does not have all the data that was taken.
- The Staff Report lists 38 decibels as the maximum reading from the noise study, but that was actually the minimum. There is actually a decibel level of 50 listed in the report.

Mr. Faner's rebuttal comments:

- Regarding the 10:00pm to 7:00am time period, their test determined that the condenser noise, running at maximum cooling, was going to be 38 decibels at the most regardless of the time period.
- The reason some people were confused about them providing a range for the ambient levels yet providing only one number for the condenser levels is because the condenser unit is putting out a constant amount of noise. The ambient level is fluctuating and they want to present that range.
- The decibel level of 50 noted in the noise study is due to condenser noise plus ambient noise. The ambient noise was generally in the 40-50 decibel range.

Commission questions and comments to Mr. Faner:

- Your table does not reflect the total noise with the units on; it only reflects your measurement of the noise of the unit? *Mr. Faner responded no, it reflects all of the noise that they measured. The reason they are only reporting the lowest level is because with the ambient noise fluctuating they wanted the ambient at its lowest.*
- But we are not looking to see what is the lowest noise at any given time; we are looking to see what is the total highest noise. *Mr. Faner responded they cannot control cars, boats, birds, etc. They are trying to identify the ambient noise excluding any externally discernible noise sources. If the ambient is 45 decibels and the condenser is rated at 38 decibels, then it is below what the ambient is.*
- The unreality of your approach is demonstrated in the first column of your table. With the units off, on the west property line the ambient noise is 46-50 decibels. With the units on the noise is at 45 decibels, less than the ambient level with the units off. At the south property line the ambient noise is 42-46 decibels with the units off. With the units on the total noise generated is 40 decibels, which is less than the ambient level. This defies logic. *Mr. Faner responded first they measure the ambient noise, then they measure the ambient noise with the condenser adding up to it. The ambient is not at a constant level. The condenser is at a constant level.*
- But would you not agree that even using a logarithmic approach the combination of ambient noise plus an incremental noise would generally equal at least the minimal level of ambient noise? *Mr. Faner responded no. First they measured the ambient noise for 15 minutes and then they measured the ambient with the condenser on. They listed the minimum ambient level in that 15-minute time span and the average level. They are trying to determine the noise produced by the condenser. The homeowners do not control the ambient level.*
- It is true the homeowners do not control the ambient level, but the Commission is looking for what the total impact is to the neighbors, not looking to see what the least level of noise of the condenser is that is created.
- In reality the human ear hears specific things and does not necessarily differentiate between what makes up the ambient noise. You are essentially saying there is a collection of sounds which has an ambient noise level that fluctuates, but the point is that when the condenser unit goes on, even if it is 5 decibels less than the ambient noise outside, the human ear is much better than your instruments are and it knows that that is a different sound. *Mr. Faner*

1 *responded that is true. His experience when measuring the noise level with the*
2 *condenser on was that he could only hear the condenser during 5% of the time*
3 *he was standing there. The rest of the time ambient levels were higher to his*
4 *ears. With the condenser noise affecting the ambient noise if the condenser is*
5 *putting out 30 decibels of noise and the ambient is 45 the condenser is not*
6 *going to be adding much of anything to the ambient noise. The reason they*
7 *report only the lowest level during the time of the condenser measurement is*
8 *because they want to isolate the contribution of the condenser as much as*
9 *possible.*

10
11 The public testimony period was closed.

12
13 Commission comments:

- 14 • The context of this is whether there is a disturbance caused by this noise. The
15 neighbors complained that the measurements were not done at the time when
16 a disturbance would most likely occur, which is in the dead of night when the
17 ambient noise is low and the sound generated by the heat or cooling pump
18 could be most disturbing.
- 19 • Further study should be done with at least one measurement taken between
20 10:00pm and 7:00am when a different decibel level governs. The neighbors
21 should be noticed of when this would occur and given the opportunity to be
22 present so they can subjectively measure whether or not this creates a
23 disturbance.
- 24 • The fundamental problem is that the homeowner/applicant chose to locate
25 these units in a location that least affected the homeowner and most affected
26 the neighbors. Both condensers are in the wrong place. The person who
27 should deal with it is the applicant. The condensers should both be removed
28 and located as far away from the property lines on either side as they can be,
29 the middle of the building on the back side, and soundproofed there.

30
31
32 The public testimony period was re-opened.

33
34 Commission question to Mr. Brunelle:

- 35 • Has the cooling pump been run at night? *Mr. Brunelle responded no, with the*
36 *exception of the testing. The units have been moved from the side yard into the*
37 *back patio area and are no longer in the setback.*

38
39 Commission questions to staff:

- 40 • Are the units currently located in a permissible area of the project footprint?
41 *Staff responded yes, they comply with the Zoning Ordinance and are in a legal*
42 *area outside the setback.*
- 43 • Could the units still be moved even further away from the property lines? *Staff*
44 *responded yes.*

45
46
47 The public testimony period was closed.

1 Chair Cox moved and Commissioner Graef seconded a motion to request the
2 applicant perform additional testing of both the heating and cooling units, with
3 both units running simultaneously during the testing, between the hours of
4 10:00pm and 6:00am and that the applicant coordinate a mutually acceptable time
5 with the neighbors at 151 Edwards Avenue and 145 Edwards Avenue to give them
6 the opportunity to observe the testing should they wish to. The applicant should
7 then return to the Planning Commission with the testing outcome.
8

9 Commissioner Keegin amended the motion to add at the end, "...with a view of
10 assisting the Commission in determining whether the standards of Section
11 12.16.050 have been met." The maker of the motion approved the amendment.
12

13 The motion passed 5-0.
14

15 The public hearing was closed.
16

17 Old Business

18 None.
19

20 New Business

21 None.
22

23 Staff Communications

- 24 • Code enforcement action was taken on the Seahorse restaurant regarding a sign
25 that was installed without permits. The owner requested a hearing by a hearing
26 officer to examine whether the administrative citation was properly issued. Earlier
27 this week the hearing officer determined that the citation had been issued
28 properly and the \$500 fine for the third citation stood. Staff has notified the
29 property owner that he needs to remove the sign by the middle of next week or
30 an additional citation will be issued.
- 31 • The City Council conducted an extensive review of the priority calendar's 50-plus
32 items at their meeting of April 23, 2013. Many suggestions forwarded by the
33 Planning Commission were among the 50 items, such as the Marinship Specific
34 Plan, formula retail, tightening standards for undergrounding utilities, housing
35 element implementation measures and single-family regulations in a multi-family
36 district. The next step is for staff to identify the cost of the items that made the list
37 in terms of resources and staff time so the Council can begin ranking the
38 suggestions by the end of May 2013.
- 39 • The City Attorney and City Clerk are working on codification of the Municipal
40 Code to be put online in order to be more searchable. It should be completed by
41 the end of the fiscal year.
42
43

44 Planning Commission communications:

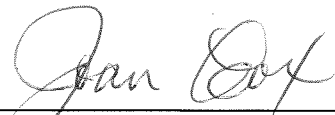
- 45 • Commissioner Werner will not attend the Planning Commission meeting of May
46 1, 2013.
47
48
49
50

1
2 **Adjournment**
3

4 **Commissioner Bair moved and Commissioner Keegin seconded a motion to**
5 **adjourn the meeting. The motion passed 5-0.**
6

7 The meeting was adjourned at 8:43 p.m.
8

9
10 
11 Submitted by
12 Jeremy Graves, AICP
13 Community Development Director
14


Approved by
Joan Cox
Chair

15 I:\CDD\Plan Comm\Minutes\2013\04-24-Approved.doc
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50