SAUSALITO PLANNING COMMISSION RESOLUTION NO. 2021-21

A RESOLUTION APPROVING A DESIGN REVIEW PERMIT AND TENTATIVE MINOR SUBDIVISION MAP AND RECOMMENDS CITY COUNCIL TO APPROVE THE ENCROACHMENT AGREEMENT FOR A RE-SUBDIVISION OF EXISTING 2-UNIT CONDOMINIUM SUBDIVISION AND ENCROACHMENT FOR A PORTION OF THE EXISTING RETAINING WALL, DECK RAILING, BUILDING SIDING/FASCIA, FENCE, AND LANDSCAPING IN THE PUBLIC RIGHT OF WAY (DR/EA/TM 2020-00174)

WHEREAS, on October 29, 2020 an application was filed by property owner Naomi Weinless, requesting Planning Commission approval of a Design Review Permit and Tentative Minor Subdivision Map for the re-subdivision of an existing 2-unit condominium minor subdivision to a 2-unit condominium minor subdivision and the recommendation for City Council approval of an Encroachment Agreement, for an existing retaining wall, portion of deck railing, portion of building siding/fascia, a fence, and landscaping, in the Public Right of Way and compliant property restrictions at 167-169 Filbert Avenue (APN 064-142-32, 064-142-33); and

WHEREAS, the Planning Commission conducted a duly-noticed public hearing on July 21, 2021, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission has reviewed and considered the Map titled "Tentative Parcel Map The Filbert Bayview Homes A Condominium Project Sausalito, California" dated July 7, 2021; and

WHEREAS, the Planning Commission has considered all oral and written testimony on the subject application; and

WHEREAS, the Planning Commission has reviewed and considered the information contained in the staff report dated July 21, 2021 for the proposed project; and

WHEREAS, the Planning Commission finds that the project is categorically exempt from California Environmental Quality Act (CEQA) pursuant to Section 15301 of the CEQA Guidelines; and

WHEREAS, the Planning Commission finds that, as conditioned herein, the proposed project complies with the requirements of the General Plan and Zoning Ordinance as described in the staff report dated July 21, 2021.

NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES:

1. A Tentative Minor Subdivision Map to re-subdivide existing detached 2-unit condominiums at 167-169 Filbert Avenue to update site conditions is approved based upon the findings provided in Attachment 1, and subject to the conditions of approval provided in Attachment 2. The Tentative Map with updated Site Conditions is provided in Attachment 3.

- 2. A recommendation for City Council to approve the Encroachment Agreement for an existing retaining wall, portion of deck railing, portion of house siding/fascia, a fence, and landscaping, in the Public Right of Way is recommended for City Council approval based upon the findings provided in Attachment 1, and subject to the conditions of approval provided in Attachment 2. The Project Site Conditions are provided in Attachment 3.
- 3. A Design Review Permit is approved for an existing retaining wall, portion of deck railing, portion of house siding/fascia, a fence, and landscaping, in the Public Right of Way based upon the findings provided in Attachment 1, and subject to the conditions of approval provided in Attachment 2. The Site Conditions are provided in Attachment 3.

RESOLUTION PASSED AND ADOPTED, at the regular meeting of the Sausalito Planning Commission on the 21st day of July 2021, by the following vote:

AYES: Saad, Luxenberg, Junius, Graef, Chair Feller

NOES: None ABSENT: None ABSTAIN: None

Lilly Whalen

Lilly Whalen

Secretary to the Planning Commission

ATTACHMENTS

- 1- Findings
- 2- Conditions of Approval
- 3- Tentative Parcel Map

PLANNING COMMISSION RESOLUTION NO. 2021-21 July 21, 2021 DR/EA/TM 2020-00174 167-169 Filbert Avenue

ATTACHMENT 1: FINDINGS

DESIGN REVIEW FINDINGS

The Planning Commission must determine whether the project is in conformance with the following findings (SMC 10.54.050.D):

- 1. The proposed project is consistent with the General Plan, any applicable specific plans, any applicable design guidelines, and this chapter.
 - The project, as conditioned, is consistent with all applicable policies, standards, and regulations of the General Plan and Zoning Ordinance.
- 2. The proposed architecture and site design complements the surrounding neighborhood and/or district by either: a) Maintaining the prevailing design character of the neighborhood and/or district or b) Introducing a distinctive and creative solution which takes advantage of the unique characteristics of the site and contributes to the design diversity of Sausalito.
 - The project would grant design approval for existing improvements which maintain the prevailing design character of the neighborhood and street scape.
- 3. The proposed project is consistent with the general scale of structures and buildings in the surrounding neighborhood and/or district.
 - The project is consistent with the existing general scale and appearance of structures and buildings in the surrounding neighborhood and district.
- 4. The proposed project has been located and designed to minimize obstruction of public views and primary views from private property.
 - The project consists of existing improvements which will not have view impacts.
- 5. The proposed project will not result in a prominent building profile (silhouette) above a ridgeline.
 - The project does not involve the construction of any new buildings or additions to existing buildings that would project above a ridgeline.
- 6. The proposed landscaping provides appropriate visual relief, complements the buildings and structures on the site, and provides an attractive environment for the enjoyment of the public.
 - The existing site is landscaped per the original project approval. No additional landscaping is proposed as part of the project.

7. The design and location of buildings provide adequate light and air for the project site, adjacent properties, and the general public.

The project does not involve the construction of any new buildings or additions to existing buildings that would affect the amount of light or air received by adjacent properties.

8. Exterior lighting, mechanical equipment, and chimneys are appropriately designed and located to minimize visual, noise and air quality impacts to adjacent properties and the general public.

There is no new construction that includes any lighting, mechanical equipment or other similar features and therefore this finding is not applicable.

9. The project provides a reasonable level of privacy to the site and adjacent properties, taking into consideration the density of the neighborhood, by appropriate landscaping, fencing, and window, deck and patio configurations.

The project does not involve the construction of any new buildings or additions to existing buildings that could impact privacy.

10. Proposed entrances, exits, internal circulation, and parking spaces are configured to provide an appropriate level of traffic safety and ease of movement.

Traffic safety, circulation, parking and movements will remain unchanged.

11. The proposed design preserves protected trees and significant natural features on the site to a reasonable extent and minimizes site degradation from construction activities and other potential impacts.

The project does not propose to remove any trees.

12. The project site is consistent with the guidelines for heightened review for projects which exceed 80% of the maximum allowed Floor Area Ratio and/or site coverage, as specified in subsection E (Heightened Design Review Findings).

There are no changes to the site that would make the project subject to heightened design review.

13. The project has been designed to ensure on-site structures do not crowd or overwhelm structures on neighboring properties. Design techniques to achieve this may include, but are not limited to: stepping upper levels back from the first level, incorporating facade articulations and divisions (such as building wall offsets), and using varying rooflines.

The project does not involve the construction of any new buildings or new floors to existing buildings.

ENCROACHMENT AGREEMENT FINDINGS

Pursuant to Zoning Ordinance 10.56.060 (Encroachment Review and Agreements), the Planning Commission recommends City Council approval of an Encroachment Agreement based on the following findings:

- 1. The proposed encroachment is compatible with the surrounding area and will either improve or not significantly diminish visual or physical public enjoyment of the streetscape upon which the encroachment is proposed.
 - The existing retaining wall, portion of deck railing, portion of house fascia, fence, and landscaping, in the Public Right of Way are compatible with the surrounding area, improve, and do not diminish the visual or physical public enjoyment of the streetscape on which the encroachments are located.
- 2. The encroachment will not adversely affect the usability or enjoyment of adjoining parcels nor create or extend an undesirable land use precedent.
 - The existing retaining wall, portion of deck railing, portion of house siding/fascia, fence, and landscaping will not adversely affect the usability or enjoyment of adjoining parcels, will not be anticipated to set a precedent. Minor encroachments, such as this scope in the City's Public Right of Way, are a common occurrence in Sausalito.
- 3. The encroachment is necessary to the reasonable use and enjoyment of the property and the extent of the encroachment is justifiable.
 - These existing encroachments are necessary to the reasonable use and enjoyment of the property and the extent of the encroachment is justifiable.
- 4. The proposed encroachment will not adversely affect the public circulation nor create or constitute a hazard to public safety.
 - The proposed encroachments will not affect access and circulation on Filbert Avenue.
- 5. The value of the proposed improvements will not prejudice a policy decision to terminate the encroachment nor preclude or make difficult the establishment or improvement of streets or pedestrian ways.
 - The portion of the existing retaining wall, portion of the deck railing, portion of the building siding/fascia, fence, and landscaping, , are not anticipated to impede future improvements.

SUBDIVISION MAP ACT FINDINGS

In accordance with Government Code Section 66473.5, the Planning Commission finds:

1. The subdivision is consistent with the General Plan.

The existing General Plan policies are consistent with the proposed tentative map and resubdivision of an existing 2-unit condominium.

In accordance with Government Code Sections 66412.3 and 66473.1, the Planning Commission finds:

 Local agencies shall consider the effect of the approval or denial on the housing needs of the region in which the local jurisdiction is situated and balance these needs against the public service needs of its residents and available fiscal and environmental resources.

The proposed re-subdivision will not increase the local housing supply nor public service needs as no new residences are proposed. No physical improvements or modifications are included within the project.

3. The design of the re-subdivision shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision. California Government Code (Section 66474) requires that the local agency disapprove a tentative map if it makes anyone of the following findings:

The proposed subdivision will not alter the existing structures or their potential for future passive heating or cooling.

Government Code Section 66474 requires the local agency disapprove a tentative map if it makes any one of the following findings. In accordance with Government Code Section 66474, the Planning Commission finds:

1. That the proposed map is not consistent with applicable general and specific plans.

The subdivision map is consistent with the General Plan. No specific plan exists for this area.

2. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

The subdivision map does not include new improvements which are inconsistent with the General Plan or any applicable specific plan.

3. That the site is not physically suitable for the type of development.

The project site is already developed as an existing 2-unit condominium and there are no proposed alterations to the existing structures and/or land. There have been no detrimental impacts to the site as a result of the current subdivision and, therefore, the project site can be considered physically suitable for the re-subdivision of the parcel.

4. That the site is not physically suitable for the proposed density of development.

The minor subdivision conforms to the density of the R-2-2.5 District and other development standards of the site and zone district.

5. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

The subdivision map does not include new improvements to the existing structures on the subject parcel.

6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.

The subdivision map does not include new improvements to the existing structures on the subject parcel.

7. That the design of the subdivision or type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction.

The subdivision map does not include new improvements to the existing structures on the subject parcel.

PLANNING COMMISSION RESOLUTION NO. 2021-21 July 21, 2021 DR/EA/TM 2020-00174 167-169 Filbert Avenue

ATTACHMENT 2: CONDITIONS OF APPROVAL

These conditions of approval apply to Sheets 1-4- the project plans titled "Tentative Parcel Map The Filbert Bayview Homes A Condominium Project Sausalito, California." dated July 7, 2021 (Attachment 3)

COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION CONDITIONS OF APPROVAL:

General Items

- 1. It shall be the applicant's/property owner's responsibility to diligently proceed to carry out the conditions of approval and implement any approved permit/entitlement. This shall include establishing the approved use within the time limits set forth by the applicable chapter (reference Sausalito Municipal Code (SMC) Section 10.50.120).
- 2. The <u>Design Review Permit</u> shall expire two years following the effective date of the permit if the project entitlement has not been implemented, provided no extension has been filed prior to the expiration date. The project entitlement pursuant to the Design Review Permit is determined to be implemented if the applicable conditions of approval prerequisite to construction have been satisfied and any required construction permits have been issued.
- 3. The <u>Encroachment Agreement</u> shall expire one year following the effective date of the permit if the project entitlement has not been implemented, provided no extension has been filed prior to the expiration date.
- 4. The <u>Tentative Map</u> shall expire twenty-four (24) months after the date of its approval or conditional approval.

The Community Development Director is authorized to approve minor modifications to the project, pursuant to the SMC Section 10.50.180 regarding changes to an approved project. Major project modifications will require review and approval by the Planning Commission.

5. In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided by law, this approval shall be suspended pending dismissal or final resolution of such action.

If any condition is invalidated by a court of law, the entire project shall be reviewed by the City and substitute conditions may be imposed.

6. The Applicant/Property Owners shall defend, indemnify (including reimbursement of all fees and costs reasonably incurred by separate counsel retained by the City) and hold harmless the City and its elected and appointed officials, officers, agents and employees, from and against any and all liability, loss, damage, or expense, including without limitation reasonable attorney's fees which City may suffer or incur as a result of any claims relating to or arising from the City's approval of the project or any portion of the project.

DEPARTMENT OF PUBLIC WORKS CONDITIONS OF APPROVAL:

Conditions Applicable to the Tentative Map

Tentative Map

- 1. The three "Encroachments Permit "references on the Tentative Map shall be updated to "Encroachment Agreement" if shown on the Parcel Map.
- 2. An Encroachment Agreement (EA) shall be obtained, or the current EA amended to include the driveway retaining wall and the deck rail. In addition, the EA or the EA amendment shall include the building encroachment at 169 Filbert.
- **3.** The Parcel Map and necessary support documents shall be submitted for review by the City. Support documents shall include but not be limited to; closure calculations, CC&Rs.

Advisory Notes

- 1. Advisory notes are provided to inform the applicant of Sausalito Municipal Code requirements, and requirements imposed by other agencies. These requirements include, but are not limited to, the items listed below.
- 2. The applicant shall indemnify the City for any and all costs, including without limitation attorneys' fees, in defending this project or any portion of this project and shall reimburse the City for any costs incurred by the City's defense of the approval of the project.
- **3.** All applicable City fees as established by City Council resolutions and ordinances shall be paid.

PLANNING COMMISSION RESOLUTION NO. 2021-21 July 21, 2021 DR/EA/TM 2020-00174 167-169 Filbert Avenue

ATTACHMENT 3: TENTATIVE PARCEL MAP THE FILBERT BAYVIEW HOMES A CONDOMINIUM PROJECT SAUSALITO, CALIFORNIA







