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SAUSALITO PLANNING COMMISSION
Wednesday, November 4, 2009
Approved Minutes

Call to Order

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

Present: Vice Chair Stan Bair, Commissioner Joan Cox (Items 4-6), Commissioner Stafford Keegin, Commissioner Eric Stout,

Absent: Bill Chair Keller, Commissioner Joan Cox (Items 1-3.)

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

Approval of Agenda

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

Approval of Minutes

Vice Chair Bair moved and Commissioner Keegin seconded a motion to approve the minutes of March 18, 2009. The motion passed 3-0.

Public Comments

None.

Public Hearings

1. **ENV 09-014, Initial Environmental Study/Mitigated Negative Declaration (IES/MND), Mallya, 300 Locust Street.** Initial Environmental Study/Mitigated Negative Declaration (IES/MND), which addresses the environmental impacts associated with construction and operation of a warehouse at 300 Locust Street (APN 064-087-07).
2. **DR/CUP 09-014, Design Review Permit, Conditional Use Permit, Mallya, 300 Locust Street.** Approval of a Design Review Permit to allow for the construction and site improvements, including parking and landscaping, related to a new +/- 6,600 square foot warehouse and a Conditional Use Permit to allow a warehouse use at 300 Locust Street (APN 064-087-07). The project is subjected to Heightened Review standards since the project exceeds 80% of the permitted building coverage and floor area limitations.

The public comment period was opened. There being none, the public comment period was closed.

Vice Chair Bair moved and Commissioner Keegin seconded a motion to continue the public hearings for 300 Locust Street, Items 1 and 2, to the meeting of November 18, 2009. The motion passed 3-0.

1
2 **3. DR 08-002, Review of Privacy Solution, Akraboff, 600A Locust Street.**

3 Review of a privacy solution for a project at 600A Locust Street (APN 064-211-
4 27). A Design Review Permit was approved by the Planning Commission on
5 June 3, 2009 and an appeal was filed on June 15, 2009. The City Council heard
6 the appeal on July 21, 2009 and remanded the application to the Planning
7 Commission for a recommendation to the City Council on the privacy issue. The
8 Planning Commission continued consideration of this item from the October 14,
9 2009 hearing.

10
11 The continued public hearing was opened.

12
13 The public comment period was opened. There being none, the public comment period
14 was closed.

15
16 Commission comment to applicant and the appellant:

- 17
- 18 • The Commission would not be favorably disposed to continue this hearing
19 again.

20
21 **Vice Chair Bair moved and Commissioner Keegin seconded a motion to continue**
22 **the public hearing for 600A Locust Street to the meeting of December 2, 2009. The**
23 **motion passed 3-0.**

24
25 **4. DR 09-181, Design Review Permit, City of Sausalito, Bridgeway to Ferry**
26 **Landing Improvement Project.** Design Review Permit to allow a local public
27 enhancement project including construction of upgraded sidewalks and ADA
28 accessibility improvements within portions of the Humboldt Avenue public right-
29 of-way as well as Bay Street (APN 065-073-01) and Anchor Street (APN 065-
30 073-03).

31
32 The public hearing was opened. Associate planner Heidi Burns presented the Staff
33 Report.

34
35 Vice Chair Bair indicated that Commissioner Cox had arrived at 6:43p.m.

36
37 Presentation was made by City Engineer Todd Teachout, the applicant.

38
39 Commission questions and comments to Mr. Teachout:

- 40
- 41 • The new plan still lacks continuity in the bicycle paths and doesn't provide a
42 clear connection to the bicycle path through the city, only within the project
43 perimeter. How will this be connected up in a cohesive manner? *Mr. Teachout*
44 *responded this plan doesn't have a lot of bicycle facilities because it is the*
45 *beginning of a larger system. By itself it is not very useful and functional, but as*
46 *other segments are developed these improvement will allow the City to install*
47 *bicycle facilities. The commuters and recreational cyclists are fairly well*
48 *accommodated on the Bridgeway facility, but the occasional and rental bike*
49 *cyclists struggle with the existing facilities.*

- 1 • Are these lines on the drawings concrete score lines or actually some type of
2 pattern? *Mr. Teachout responded they are mostly concrete score lines with a*
3 *thought toward architectural consistency with the downtown Bridgeway area.*
4 *The new sidewalk will be scored, patterned, or exposed aggregate type*
5 *concrete.*
- 6 • How does this plan address the goals of this project? *Mr. Teachout responded*
7 *that while the plan has been significantly downsized based on community*
8 *input, it meets the goal. It is primarily a pedestrian enhancement at this point*
9 *but it will enable future bicycle facilities. Consideration was given to the plans*
10 *of Harbor and Downtown Action Committee (HDAC) and North-South*
11 *Greenway Planning.*
- 12 • Do the tourists who rent bikes know to turn right at the Park if they're going to
13 the ferry? *Mr. Teachout responded many do. There are a few users who bring*
14 *their bikes on the ferry and then head north and a few bike renters who come*
15 *through Parking Lot 1. There has been discussion regarding turning*
16 *movements, how the cyclists get from Bridgeway to the Ferry Landing. This*
17 *path plan proposes striping changes on Bridgeway to better facilitate left turns*
18 *at Anchor.*

19
20
21 The public comment period was opened.

22
23 Michael Rex indicated the following:

- 24 • This new plan allows for future improvements that have been illustrated in the
25 HDAC's plan and the North-South Greenway plan.
- 26 • The sidewalk on Anchor could be 8' instead of 6' by reducing the 12' travel
27 lanes to 11'4" and the 9' parallel parking space to 8'4".
- 28 • Lot 1 does not need an entrance more than 12' wide as cars will only exit from
29 the lot.
- 30 • There are two side-by-side handicap ramps at the southeast corner of Lot 2 at
31 Anchor and Humboldt; this can be reduced to one.
- 32 • They would like to see the sharrows on Anchor and Bay Streets to show
33 bicycle access.
- 34 • They would like to know the purpose of the square area next to the boardwalk
35 entry.
- 36 • They'd like to have in the schedule the opportunity to offer input on the North-
37 South Greenway plan before it is brought to the public.

38
39
40 Bea Sidler, Sausalito Boulevard, indicated the following:

- 41 • The Bay Street sidewalk is a lawsuit in waiting where the tree roots have
42 displaced the sidewalk. That sidewalk is used by people from the tour buses
43 and should be 8' wide. The additional 2' could be taken out of the parking lot.

44
45 The public comment period was closed.

46
47 Mr. Teachout's response to the public comments:

- 48 • The goal is to make the area ADA accessible. There are two ramps at
49 Humboldt and Anchor because disabled advocates have suggested putting
50 ramps along the path of travel instead of at 45-degrees.

- The ramps depicted in the plans are one type, but there are several variations that could be used instead.
- They plan to visually improve the parking lot entrances, which may include some width adjustments. Right now there are three lanes going into Lot 1, one going in, two going out. There is one lane going into Lot 3, not two as in the previous version because drivers exiting from Lot 3 onto Bay might go south on Humboldt.
- At this stage of planning Staff is not proposing to remove the trees. Staff will look at it more carefully in the construction development phase and assess the risks of root pruning to the health of the trees and investigate structural barriers between the roots and the sidewalks.
- Bay Street is wide enough to stripe a Class 2 bike lane 2 but the stakeholder group said there is not enough demand to warrant it. David Hoffman of the Marin Bicycle Coalition said sharrows are put in on a facility that is not wide enough for a Class 2 facility.
- Sharrows were not put on the plan because they didn't have that computer-mapping graphic.
- He does not recommend an 8' sidewalk on Anchor Street because he feels the stakeholder group was representative of the community and that he has a solid agreement with them. Anchor is a narrow road and isn't wide enough for a Class 2 bike lane, but it is feasible due to the flexible lane width standards.

Commission questions to Mr. Teachout:

- What do you think about making the sidewalks on the north of Bay and the south of Anchor 8' by narrowing the lanes slightly? *Mr. Teachout responded on Bay Street there would be no problem with widening it as they are moving the curb face south 2'.*
- What do you intend to do with the square box lacking definition next to the boardwalk entry that Mr. Rex mentioned? *Mr. Teachout responded they will work with the Maddens and the Sausalito Yacht Harbor to determine what should be done with that area. They hope to start by extending the boardwalks down into a dovetail 45-degree angle.*
- Would you be okay with changing the Condition of Approval expiration to 2 years? *Mr. Teachout responded yes.*
- When you get to the North-South Greenway plan will there be more notice to the community than occurred with this plan? *Mr. Teachout responded there is a technical advisory committee that will hold two workshops widely advertised to the general public.*

Commission comments:

- The time limit should be changed from five to two years.
- A sharrow on Bay Street should be implemented and reflected on the plans.
- The public should be noticed regarding the availability of the construction documents.
- The sidewalks should become 8' on Bay Street and the south side of Anchor Street by narrowing the lane slightly. For a small cost it shows the City is making an effort to address the ADA accessibility issues.

- There should be 45-degree access to the street corners as opposed to two separate ramps and double ramps in the direction of travel.

Commission comments and questions:

- Are there technical or cost issues with double access ramps in the direction of travel? *Mr. Teachout responded there are both; there are space and grade issues. They will try to the extent possible to use multiple ramps in the direction of travel although they may encounter obstacles such as utility boxes and minor grade differences.*
- We would like the 8' sidewalks where possible. If that can't be done within the budget we would favor having the project go forward as it is now and not be held up on the 8' sidewalk issue.
- Was the reason you did not propose the sidewalk on Anchor Street be 8' based on an agreement you made with various community members, not based on a funding constraint? *Mr. Teachout responded yes.*
- Do you believe if the Commission issues as a Condition of Approval the widening of both Anchor Street and Bay Street sidewalks to 8' that that will hold up the project in any manner or not fall within the project funding? *Mr. Teachout responded he couldn't say for certain, but he didn't believe so.*

Comment from Mr. Teachout:

- The funding constraints will compel the City to comply with a two-year time limit. The funders would consider an award of construction as meeting the goals, so the City needs to get an award of construction by the first quarter of 2010. A project of this scope shouldn't take two years unless there is an unusually large amount of rain to hold up the project.

Conditions of Approval:

- Modify Advisory Note 1 and bring it up to a general note regarding the expiration of the project to be a two-year period.
- To the extent possible ADA ramps are encouraged in all directions of travel.
- Eight foot wide sidewalks shall be constructed on the south side of Anchor Street and the north side of Bay Street.
- Comply with applicable law regarding the marking of sharrows on both Anchor and Bay Streets.

Vice Chair Bair moved and Commissioner Cox seconded a motion to approve a Design Review Permit for the construction of Bridgeway to Ferry Landing Improvement Project along with the findings and the Conditions of Approval as amended. The motion passed 4-0.

- 5. CUP/SP 09-014, Conditional Use Permit, Sign Permit, Sausalito Optometry, 33 Caledonia Street.** Conditional Use Permit for a medical optometrist office in a vacant building in the Commercial Residential Zoning District. A Sign Permit is requested for the installation of one monument sign on existing posts for the Sausalito Optometry office at 33 Caledonia Street (APN 065-056-22).

1 The public hearing was opened. Assistant Planner Alison Thornberry presented the
2 Staff Report.

3
4 Presentation was made by John McCoy, the applicant:

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6 Commission questions to Mr. McCoy:

- 7
- 8 • What circumstances prompted Sausalito Optometry to begin operations prior to
9 the issuance of proper permits? *Mr. McCoy responded Sausalito Optometry
10 had operated for five years in the Commercial Residential Zoning District and
11 was able to get a use permit without a CUP and they assumed it would remain
12 the same. He was made aware of it when he came to Planning for the Sign
13 Permit and applied the next day for the CUP.*

14 The public comment period was opened. There being none, the public comment period
15 was closed.

16
17 **Vice Chair Bair moved and Commissioner Cox seconded a motion to approve a**
18 **Conditional Use Permit and Sign Permit for a medical office at 33 Caledonia**
19 **Street with the Conditions of Approval as noted. The motion passed 4-0.**

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- 22 **6. ZOA 09-002, Zoning Ordinance Addition and Amendment, Construction**
23 **Time Limit Regulations, Length of Validity of Certain Permits, City of**
24 **Sausalito.** The addition of a new section in the Zoning Ordinance which
25 establishes time limit regulations for construction projects; amendment of Zoning
26 Ordinance Sections 10.54.040, 10.54.050, and 10.62.070 regarding the
27 expiration of certain permits; and amendment of Zoning Ordinance Section
28 10.50.120 regarding implementation of permits. These amendments are exempt
29 from the California Environmental Quality Act (CEQA) in accordance with
30 Section 15305 of the CEQA Guidelines.

31
32 The public hearing was opened. Community Development Director Jeremy Graves
33 presented the Staff Report.

34
35 Commission questions and comments to staff:

- 36
- 37 • Could these regulations be retroactively applied to projects that have already
38 received a Design Review Permit? *Staff responded they are uncomfortable*
39 *retroactively applying these construction time limit regulations to projects that*
40 *have already received their entitlements. One option for the Commission to*
41 *beef up the enforcement would be to say that the penalties are the greater of*
42 *10% or \$200,000.*
 - 43 • How many projects are out there that have pulled a Design Review Permit that
44 have not yet pulled a Construction Permit? *Staff responded they have not*
45 *looked at that aspect but they would estimate in the dozens.*
 - 46 • How many open Building Permits are out there that have already started
47 construction that would not be affected by this ordinance? *Staff responded it*
48 *could be over one thousand.*
- 49
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- How many construction projects are out there with Design Review Permits that have been commenced and not yet completed? *Staff responded they have not looked at that aspect.*
- Have you considered any enforcement actions other than monetary penalties, such a delaying an Occupancy Permit, something that would have teeth to someone to whom money is no object? *Staff responded stopping the construction is one option.*
- Anything more than \$2 million would be a \$200,000 dollar penalty, but that type of home will not be built in the size of plots left in town. *Staff responded they must make sure they are talking about the value of the improvement separate from the value of the land.*
- The time limit should be retroactive for someone with a Design Review Permit who comes in with an amendment and finds he needs a variance. *The City Attorney suggested the time limits be for modifications that require review by the Planning Commission.*
- A 10% penalty will have no effect on a larger project. A 20% penalty fee will sting both large and small projects, but it's not \$200,000 on a small project. It is also a bigger disincentive to larger projects.
- Are there any objections to a 20% penalty fee from a legal standpoint? *The City Attorney responded no.*
- Does implementation of permits mean the same as vesting? *Staff responded it means to fulfill the Conditions of Approval, obtain the Building Permit, do the grading, set forms, and pour the foundation within five years, or seven years if adding a two-year extension.*
- What is the legal implication of that? *Staff responded if the seven years expire before getting foundation they would have to start over.*

The public comment period was opened.

Michael Rex indicated the following:

- Financing should be one of the considerations in granting a construction time limit because there are other areas of financing that are beyond the control of the applicant.

Flynn McDonald, 99 Miller Lane, indicated the following:

- The way the time extension is approved is extremely important to someone who puts in the time and effort to get a design review approval. If an applicant has to go back and redo the whole application process they might as well go for a brand new two-year approval and not the one-year extension.
- With Design Review approval duration being shortened from five years to two with a potential one-year extension that is a significantly shorter period than five years to get everything done, especially with a complex project. There needs to be a provision to give applicants more flexibility with the design review approval period and whether it is satisfied with an application for a Building Permit or the issuance of a Building Permit. Good applications can be held up through no fault of the applicant. If that happens let staff stop the clock and let the Building Permit run its course.

1 Ray Withy, 99 Miller Lane, indicated the following:

- 2 • He has worked with staff and the legislative committee the past few months. The ordinance as it is now has substantially improved.
- 3 • He supports the construction time limits as drafted. They are necessary and
- 4 are now moderate but enforceable.
- 5 • He is still very concerned about the extension of the Design Review Permit. Upon what basis will the Commission grant a one-year extension? This
- 6 ordinance as drafted does not give the Commission the authority to grant an
- 7 extension for a death in the family, but it should provide for that and any good
- 8 cause as long as the applicant has been diligent.
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12 The public comment period was closed.

13 Staff comment:

- 14 • Regarding Ms. McDonald's concerns, two years is plenty of time to prepare the
- 15 drawings, obtain the financing, go through Plan Check, and be issued a
- 16 Building Permit.
- 17 • The length of the validity of Design Review Permits of other jurisdictions in
- 18 Marin County varies. Two jurisdictions have a total of two years, six
- 19 jurisdictions have three years, two jurisdictions have six years, and three
- 20 jurisdictions have unlimited.
- 21 • Staff supports allowing a Zoning Administrator, using the same criteria at the
- 22 Planning Commission, to grant time extensions. This would streamline the
- 23 extension process.
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27 Commission comments:

- 28 • The ordinance actually says the Zoning Administrator or Planning Commission
- 29 may extend the expiration date of the approved Administrative Design Review
- 30 and the reason the Planning Commission currently hears those requests for
- 31 extension is because from a legal perspective extensions of Design Review
- 32 Permits required Planning Commission review. *The City Attorney responded*
- 33 *that's because Section 10.54.050, which is more specific about Design Review*
- 34 *Permits, says the Planning Commission may grant one extension for up to two*
- 35 *years. The legal interpretation was that the more specific Section 10.54.50*
- 36 *modified the more general section. If the Commission wants to consider*
- 37 *changing that, that would provide additional clarity.*
- 38 • Both provisions noted above should be made consistent to read that the
- 39 Zoning Administrator or Planning Commission may extend time limits and
- 40 leave it up to staff which applications should be brought before the Planning
- 41 Commission and which can be handled by the Zoning Administrator.
- 42 • We should not modify the language of Finding 2. That the applicant has been
- 43 diligent in pursuing implementation of the permit is broad enough that it gives
- 44 whichever entity is reviewing the issue the discretion to consider a number of
- 45 circumstances in ascertaining whether there has been due diligence on the
- 46 part of the applicant.
- 47 • We should not include financing as an unusual factor that could merit an
- 48 extension, because that is something that could be used for mischief.
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- Section 4 should be amended to add "that the Zoning Administrator may, but shall not be required to grant an extension if the following findings can be made."
- Notice of the decisions should be sent to the Planning Commission as well as the applicant and participating parties so the Planning Commission can be made aware of what is happening, because they may not otherwise have notice of it. *The City Attorney responded the issue raised is the ability of the Commission to reach down and appeal to itself, which the code doesn't allow. Staff responded they are trying to maintain consistency on the Zoning Administrator process. It would be better to have a policy that informational copies of the Zoning Administrator resolution shall be provided to the Commission rather than just ones that involve a particular issue.*

Commission questions to staff:

- With respect to the new language relating to public hearing notices on time limit extensions, Part D, Section 3, how does the public hearing administered by the Zoning Administrator work from a noticing point of view and the ability of members of the community to participate in that hearing? *Staff responded it is identical. The same notice goes out, using the same distance, same timeframe, and the same format, except mentioning the Zoning Administrator instead of the Planning Commission.*
- It says the decision of the Zoning Administrator may be appealed to the Planning Commission. Appealed by whom? *Staff responded any aggrieved party could appeal, as listed in Section 10.84.020.*
- Is there a cost of appeal and how much is it? *Staff responded it is close to \$1,000 for an appeal to the Zoning Administrator. The fee is based upon typical staff time involved in handling appeals.*
- If a time extension is granted, a neighbor can appeal that decision? *Staff responded, yes, a neighbor can appeal the decision, or if it is denied, it can be appealed by the applicant.*

Commission's Ordinance Amendments:

- Page 2, line 12, after the closing parenthetical add, "or for a project that seeks an amendment to an existing Design Review Permit that requires Planning Commission approval."
- Page 3, line 30, after, "The Zoning Administrator may," add words, "but shall not be required to grant an extension."
- Page 4, bottom row of the table, middle line will read, "lesser of 20%."
- Page 8, lines 14-19 shall be amended to say, "The applicant may request an extension of a Design Review Permit prior to the expiration of permit. The Zoning Administrator, or at Zoning Administrator's discretion, the Planning Commission, may grant one extension for up to one year."

Vice Chair Bair moved and Commissioner Cox seconded a motion to recommend to the City Council the approval of the new section in the Zoning Ordinance as amended. The motion passed 4-0.

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Old Business

None.

New Business

None.

Communications

None.

Adjournment

The meeting was adjourned at 10:34 p.m.

 /s/ JEREMY GRAVES
Submitted by
Jeremy Graves, AICP
Community Development Director

 /s/ STAN BAIR
Approved by
Stan Bair
Vice-Chair

CDD\Plan Comm\Minutes\2009\11-04-09-Approved