

1 **SAUSALITO PLANNING COMMISSION**  
2 **Wednesday, February 11, 2009**  
3 **Approved Minutes**  
4  
5

6 **Call to Order**

7 Commissioner Keller called the meeting to order at 6:30 p.m. in the Council Chamber of City  
8 Hall, 420 Litho Street, Sausalito.

9 Present: Chair Bill Keller, Commissioner Stafford Keegin, Commissioner Eric Stout,  
10 Commissioner Joan Cox

11 Absent: Vice Chair Stan Bair

12 Staff: Community Development Director Jeremy Graves  
13 Associate Planner Heidi Burns, Associate Planner Lilly Schinsing,  
14 City Attorney Mary Wagner  
15

16 **Approval of Minutes**

17 **Chair Keller moved, seconded by Commissioner Cox, that the minutes from the**  
18 **following meetings be approved: March 12, 2008, April 9, 2008 and June 11, 2008. The**  
19 **motion passed unanimously.**  
20

21 **Public Comments**

22 None  
23

24 **Public Hearings**

- 25 **1. Fish Restaurant / 350 Harbor Drive (DR/CUP 07-002)** Approval of a Design Review  
26 Permit for a gazebo to cover 24 outdoor seats; approval of amendment to Conditional  
27 Use Permit CUP 03-25 to allow 8 additional indoor seats and 42 additional outdoor  
28 seats; and recommendation of City Council approval for an exception to the Marinship  
29 Specific Plan to allow for a total of 120 indoor/outdoor seats at Fish restaurant, 350  
30 Harbor Drive (APN 063-030-01).  
31

32 The public hearing was opened. Associate Planner Lilly Schinsing presented the Staff Report.  
33

34 Commissioner comments:

- 35 • Which is the primary use and which is the ancillary use – Fish Restaurant or the fish  
36 market? *Staff responded that it is confusing. According to the Marinship Specific Plan,*  
37 *“eating areas should be secondary in nature and not characterize the business itself.”*  
38 *In September of 2004, the City Council approved an exception to the MSP which*  
39 *increased the maximum allowable seats at Fish Restaurant to 70. The resolution*  
40 *clearly noted that the action was based on a fish Restaurant with an ancillary fish*  
41 *market that cumulatively reflected and maintained the waterfront nature of the*  
42 *Marinship. The exception was not included as an amendment to the 2003 CUP, but*  
43 *rather a stand alone approval of additional seating.*  
44 • Why is the restaurant allowed to have benches? Why should approval be given for  
45 benches which are difficult to move, when the restaurant could instead use chairs.  
46 Also, the benches seat more people which in turn increases seating capacity.

47 The public comment period was opened.

1  
2 Applicant William Ziegler indicated the following:

- 3 • Seating has always been an issue at this site.
- 4 • Since 2003 or 2004, it has been an attractive, seasonal place. In Fall 2006, the  
5 restaurant was cited for “non-compliance” for having too many seats. In December  
6 2006, he submitted an application to legalize the seating and put in a gazebo. The  
7 previous owner told him he could not stay in business if he did not have seating that  
8 was variable; inside and outside seating.
- 9 • He did a survey in summer 2007 which showed that even during peak hours the  
10 maximum number of people was 55. So, even though there were actually 120 total  
11 seats available, only 55 seats were used. On nice days 91% of customers prefer to eat  
12 outside. In order to survive, it needs to be a year-round restaurant. Therefore a tent  
13 was put up in 2004-2005 to deal with the weather problems. He’s been trying to get his  
14 application through the Planning Commission for over 2 years. It’s been a very difficult  
15 process. Right from beginning, he wanted to legalize existing seats. He was told he had  
16 to remove extra seats before anything could proceed (including the tent). He tried  
17 reducing the seating capacity to 70, but it was impossible to function smoothly and keep  
18 the customers happy. If you count people, not seats, there is no problem however  
19 regulations refer to seats rather than people. The key question/issue is to comply with  
20 the intent of the Zoning Ordinance.

21  
22 Commission question to Mr. Zeigler:

- 23 • What are the traffic impacts at peak hour? *Mr. Ziegler stated there are no traffic*  
24 *concerns. At the most, there are 9 cars at peak time.*
- 25 • When did the previous owner decide to increase the seating to 120 and overlook the  
26 City Council approval to increase the seating from 20 to 70? *The co-owner of Fish*  
27 *stated that there is never a time when every seat in the house is full. Probably there are*  
28 *never 70 seats used at one time.*
- 29 • Today there were 24 large tables out there - a lot more than is on the schematic and 4  
30 tables were in the public access area which is against the BCDC’s regulations. More  
31 than 120 seats were outside. *Staff indicated the BCDC permit requires Fish to provide*  
32 *picnic tables in the public access area, but not serve food in that area.*

33  
34 Sean Hodges, a local fisherman, stated Fish Restaurant purchases his catch at a good price.  
35 Fish helps him support his family.

36  
37 Commission questions for Mr. Hodges:

- 38 • Where and what does he mainly deliver to Fish? *He stated he delivers to the fish*  
39 *market and it is additionally served as food in restaurant. He delivers mainly crab.*  
40 *However, in summer he delivers Halibut and also salmon. Also, 3 other boats from the*  
41 *Harbor deliver crab and 2 boats deliver Halibut in the summer time.*

42  
43 Jordan Rogers, Harbormaster at Clipper Yacht Harbor, stated

- 44 • The weather in the Fish Restaurant area is like Candlestick Park. From May to  
45 September the weather is foggy, cold, and windy. Fish needs seating capability for  
46 inside and outside.

- 1 • Fish Restaurant represents heritage. From 45 years ago when it was Caruso's Bait  
2 Shop to now, the Fish Restaurant property represents part of Sausalito's heritage. The  
3 Marinship Specific Plan has hampered business and caused a lot of problems. Fish  
4 Restaurant is supporting local fisherman and bringing people to the waterfront.  
5

6 Emil Wigand (phonetic) stated he works at the fuel dock and supports Fish.  
7

8 Public comment closed.  
9

10 Commission comments:

- 11 • The application should be viewed in 2 parts: First, the Design Review Permit on the  
12 gazebo and second, the CUP amendment.
- 13 • The gazebo makes sense. The tent has already been up there for quite some time with  
14 no problems.
- 15 • What is the roofing material for the gazebo? *The applicant's architect, Bill Craig,*  
16 *indicated it would be a built-up roof of tar and gravel with flashing around the edge with*  
17 *a minor slope.*
- 18 • It seems this process has been driven by picnic tables and picnic benches. Are you  
19 wedded to picnic tables and picnic benches? *We want the feel of a very rustic east*  
20 *coast crab shack with the picnic tables and the benches. We serve wine and beer in*  
21 *jars. To change this would be tampering with something that works. We want to*  
22 *continue with the picnic tables and benches.*
- 23 • In Bill Foss's original application to the City Council he said he wanted chairs and  
24 tables! Somewhere along the line that changed.
- 25 • Picnic benches are not a "minor" exception. Other restaurants can operate moving  
26 inside and outside using chairs and tables. The benches are cumbersome.
- 27 • We want Fish to succeed. However, they have more than 120 seats. In the context of  
28 other restaurants in town they're approaching the size of Poggio, they're 3 times the  
29 size of Avatar's and much bigger than Angelino's in terms of seating. Do you have any  
30 flexibility at all? *If we were granted the 120 total seats, we wouldn't find ourselves*  
31 *moving tables because we would have enough inside and outside seating. We will*  
32 *never seat 120 people at one time. But with the extra seating we wouldn't have to*  
33 *constantly be moving tables inside and outside. We are wedded to benches because of*  
34 *the feeling they create.*
- 35 • The issue is how we define "minor." Adding an additional 50 seats after we approved  
36 50 additional seats 4 years ago is a problem since it is going from 20 to 70 and 70 to  
37 120 . These 2 minor additions do not equal a minor change. Was this the intent of the  
38 applicant from the beginning? We were told the last time that you didn't need more than  
39 80 seats. It is difficult to grant a minor exception for 50 more seats.
- 40 • In the defense of Fish, they are asking for 50 seats and they want to keep indoor and  
41 outdoor seating fixed and they do not intend to have more than 70 patrons at any given  
42 time. This is consistent with the original exception—they are asking for the convenience  
43 of not having to move tables back and forth. Therefore, we could characterize this as a  
44 minor change for 2 reasons: 1) We could make each of the Findings. Section  
45 10.28.050 of the Zoning Ordinance states "minor exceptions" that do not alter the  
46 general development programs may be approved upon recommendation by the  
47 Commission, but the findings that we are required to make do not contain the term

1 "minor." 2) We are undergoing a huge change in economic circumstances and should  
2 be sympathetic to the fact that Fish Restaurant does patronize our local fishermen and  
3 many locals buy fish there.

- 4 • The actual change in status that would be effective upon our approval of the CUP would  
5 not amount to a huge change in the status quo.
- 6 • The project is great project and we want an economically viable neighborhood.
- 7 • We should be sympathetic with applicant's dilemma. Our problem is not with Fish but  
8 that the regulations passed by the City Council are replete with references to 20 seats  
9 that serve employees of the Marinship area. The evidence presented to us indicates  
10 that less than half of the patrons are from Marinship area. We're looking at an  
11 application not for 20 or 40 seats but 6 times the amount permitted by the regulations.  
12 This is not a minor change; it's a significant major exception. It is up to the City Council  
13 to say that this particular element of the MSP should be amended.
- 14 • The applicant has to go to the City Council to get a change. We are legally bound by the  
15 regulations which read plainly in several different places, "20 seats serving employees  
16 of the Marinship area" not 120 seats serving Marin County residents and Sausalito  
17 residents not part of Marinship.
- 18 • Would we be better off requesting that the Applicant come back and apply for an  
19 additional CUP as opposed to just continually adding on to what was the original CUP?  
20 That way we would not impair the ongoing business at Fish as it stands right now.  
21 Would that have a stronger impact when it comes to change MSP?
- 22 • The MSP is too stringent and it is outdated.
- 23 • The other thing that is regrettable is the regulations use seats as a way of controlling the  
24 intensity of use. But it is clear seats are unrelated to the intensity of the use at Fish  
25 since never more than 60 people or so are present at a very busy time.
- 26 • Is it possible for us to approve the Design Review Permit tonight and continue the CUP  
27 amendment when we would have a full panel? *Yes, with conditions on the Design  
28 Review Permit that the seating plan needs to comply with what is ultimately approved  
29 for the CUP.*

30  
31 The applicant indicated that they would like to keep it together and hence request a  
32 continuance until the next meeting when there is a full panel. Staff indicated the next available  
33 meeting date would be March 4<sup>th</sup>.

34  
35 **Chair Keller moved and Commissioner Stout seconded a motion to continue the public**  
36 **hearing to the Commission meeting on March 4, 2009. The motion passed 4-0.**

- 37  
38 **2. Meek et. al / 194-196 Cazneau Avenue (TM 08-002)** A Tentative Minor Subdivision  
39 Map and a Condominium Conversion Permit to allow the conversion of an existing  
40 duplex at 194-196 Cazneau Avenue (APN 064-203-23) into two single family  
41 condominium units.

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43 The public hearing was opened. Associate Planner Heidi Burns presented the Staff Report.

44  
45 The public comment period was opened.

46  
47 Lawrence Gaynor, the applicant, was available for questions.

1  
2 No public comments. The Commission briefly discussed the merits of the project.  
3

4 **Chair Keller moved and Commissioner Cox seconded a motion to approve a Tentative**  
5 **Minor Subdivision Map and a Condo Conversion Permit to allow the conversion of an**  
6 **existing duplex into two single family dwelling units at 194-196 Cazneau Ave. The**  
7 **motion passed 4-0.**

- 8  
9 **3. Van Alst & Moore / 311 South Street (NC 08-001)** A Nonconformity Permit to replicate  
10 an existing pool house at 311 South Street (APN 065-121-12). The project includes  
11 relocation and reconfiguration of walls which encroach onto neighboring properties.  
12

13 The public hearing was opened. Contract Planner Brian Stanke presented the Staff Report.

14  
15 The public comment period was opened.

16  
17 Michael Albrecht, the applicant, made a presentation and indicated the following points:

- 18 • The structure is at the end of its life expectancy, especially because of the pool use.  
19 • There's moisture damage to some of the wood and there are some existing unsafe  
20 conditions with glass adjacent to the pool. We will upgrade the structure, make it safe,  
21 and in compliance with the current building code  
22 • My client has met with the neighbors and each of them approves of the project.  
23

24 There was no further public comment and the public comment period was closed.  
25

26 **Chair Keller moved and Commissioner Keegin seconded a motion to approve a Non-**  
27 **conformity Permit to the replication of a pool house at 311 South Street. The motion**  
28 **passed 4-0.**

- 29  
30 **4. METRO PCS / 99 HECHT AVENUE (CUP/DR 08-004)** A Conditional Use Permit and  
31 Design Review Permit to modify an existing wireless communications facility by  
32 installing three new antennae on an existing 30 foot high monopole and one equipment  
33 cabinet and a battery cabinet in an existing equipment area located at 99 Hecht Avenue  
34 (APN 065-251-015).  
35

36 The public hearing was opened. Contract Planner Lorraine Weiss presented the Staff Report.

37  
38 The public comment period was opened.

39  
40 MaryAnn Miller Novak, the applicant, was available for questions.

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42 Commission questions and comments to Ms. Novak:

- 43 • We appreciate the "co-location" such as your proposal.  
44 • Is this the only MetroPCS location in town? *No, this is the third and final MetroPCS site*  
45 *in Sausalito. There is an existing site at the fire station at 300 Spencer Avenue and the*  
46 *Commission approved a conditional use permit some months ago for a site at 1750*  
47 *Bridgeway.*

- Why do you need so many in a small town like this? *The topography is a limiting factor definitely. The sites cover a radius of a mile to a mile and a half so that's the reason for the need for three sites in Sausalito.*

With no further public comments, the public comment period was closed

**Chair Keller moved and Commissioner Cox seconded a motion to approve a Conditional Use Permit and a Design Review Permit for installation of 3 new antennas on an existing 30-foot monopole as well as installation of equipment cabinets within an existing equipment compound at 99 Hecht Road. The motion passed 4-0.**

- 5. City Of Sausalito / Hotel Condominium Conversion Regulations** Review of a draft ordinance adding a new Chapter 10.67 (Hotel-Condominium Conversion Permit) and amending Title 3 (Revenue and Finance) of the Municipal Code to include Hotel-Condominiums in the definition of "Hotel."

The public hearing was opened. City Attorney Mary Wagner presented the Staff Report.

Commissioners Cox and Keegin offered to form a sub-committee to provide written feedback on the draft ordinance.

The public comment period was opened. There being no public comments, the comment period was closed.

**Chair Keller moved and Commissioner Cox seconded a motion to continue the public hearing to the Commission meeting on February 25, 2009. The motion passed 4-0.**

#### **Old Business**

None.

#### **New Business**

None.

#### **Communications**

Staff – Community Development Director Jeremy Graves noted that due to a noticing error, staff recommended cancelling the regularly-scheduled meeting next week, and instead holding a special meeting in two weeks on February 25, 2009.

**By consensus the Commission cancelled the regularly-scheduled meeting on February 18, 2009 and directed staff to schedule a special meeting on February 25, 2009.**

Mr. Graves reviewed the City Council's Priority Calendar process and noted that the City's commissions and boards are invited to make suggestions on projects that should be considered in the Finance Committee and City Council's preparation of the budget for the upcoming year. The staff requested the Commission to provide written suggestions of additional projects that should be considered for funding in the upcoming budget. These written suggestions should be forwarded to Staff at the next Planning Commission Meeting, which would be on February 25<sup>th</sup>.

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**Adjournment**

The meeting was adjourned.

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

/s/ BILL KELLER  
Approved by  
Bill Keller  
Chair

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