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SAUSALITO PLANNING COMMISSION
Wednesday, April 1, 2009
Approved Minutes

Call to Order

Chair Keller called the joint meeting of the Planning Commission and the Historic Landmarks Board (HLB) to order at 6:30 p.m. in the Council Chamber of City Hall, 420 Litho Street, Sausalito.

Present: Planning Commission Chair Bill Keller, Vice Chair Stan Bair, Commissioner Joan Cox, Commissioner Stafford Keegin, Commissioner Eric Stout

Present: Historic Landmarks Board Chair Thomas Theodores, Secretary Brad Paul, Member Vicki Nichols,

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

Chair Keller moved and Vice Chair Bair seconded a motion to approve the agenda. The motion passed.

Public Comment

None.

Public Hearings

1. **DR 08-031, Design Review Permit, Sedaghatfar, 673 Bridgeway.** Façade improvements to the structure at 673 Bridgeway (APN 065-131-07). The project requires a joint meeting with the Planning Commission and Historic Landmarks Board as the structure is in the downtown Historic District. The project requires Heightened Design Review as it exceeds 80% of the permitted floor area.

The public hearing was opened.

Associate Planner Lilly Schinsing presented the Staff Report.

The Applicant, Mr. Sedaghatfar, and the Applicant's architect, Don Olsen were available for questions.

Commission questions to Mr. Olsen:

- Will the new storefront windows be in the setback of the building itself and not out on the sidewalk? *Mr. Olsen responded it is coming up closer, to the property line, but not on the sidewalk.*
- What kind of lighting will be on the front? *Mr. Olsen responded they're not adding or changing any lighting.*
- Are you planning to replace a lot of the façade with a marble that is consistent with what is already there? *Mr. Olsen responded that is correct and they've*

1 *checked with several marble suppliers to find a close match. They will polish the*
2 *existing marble so it is consistent with the new marble.*

- 3 ▪ How long has the existing marble been there? *Applicant responded since the*
4 1950s.
- 5 ▪ Does marble tend to deteriorate or does it change in color because of sun
6 exposure? *Mr. Olsen responded one marble firm brought samples that matched*
7 *the old marble, but they would need to polish the existing marble because it has*
8 *weathered.*
- 9 ▪ Polishing the old marble can bring the luster back out? *Mr. Olsen responded yes,*
10 *and this happens to be a very hard marble.*

11
12 The public testimony period was opened. There being no audience members wishing to
13 speak, the public testimony period was closed.

14
15 Comments by the Historic Landmarks Board:

- 16 ▪ It appears the Applicant made all the requested changes and we are happy with it
17 so far.
- 18 ▪ We have no problem with the windows being extended. It cleans up the façade
19 and is a more 1950s design. We are pleased with the design and can vote for
20 this.
- 21 ▪ This type of marble used to be very characteristic of storefronts in downtown San
22 Francisco and other cities in the 1950s and a lot of it has been lost. It is a historic
23 look and the building has become much more unified in this treatment.

24
25 **HLB Chair Theodores moved and Board Member Nichols seconded a motion to**
26 **approve the plans as specified in the drawings dated March 13, 2009. The motion**
27 **passed 3-0.**

28
29 **Chair Keller moved and Vice Chair Bair seconded a motion to approve a**
30 **resolution for a Design Review Permit. The motion passed 5-0.**

31
32 **Chair Theodores moved and Board Member Nichols seconded a motion to**
33 **adjourn the meeting of the Historic Landmarks Board. The motion passed 3-0.**

- 34
35 **2. DR 09-023, Modification of a previously-approved Design Review Permit,**
36 **Hadfield, 61 Wolfback Ridge Road.** Replace a sod/grass roof with a gravel roof
37 61 Wolfback Ridge Road (APN 200-310-17). The original sod roof was part of
38 Design Review Permit DR 02-028.

39
40 Contract Planner Brian Stanke presented the Staff Report.

41
42 Presentation was made by the Applicant, Mark Hadfield.

43
44 Commission questions to Mr. Hadfield:

- 45 ▪ In a letter to the Planning Commission, Wolfback Associates recommended that
46 per their covenants and agreements you be required to install a sod roof, but is
47 extending the time limit to the end of 2010? Do you consider that reasonable?
48 *Mr. Hadfield responded he thought it was as reasonable as he could expect from*
49 *the homeowners association. It is his intention to complete the sod roof*
50 *installation, but he could not say when, given their current financial situation, or if*

1 *they sell the house during the next two years the purchaser may complete the*
2 *installation. Nothing needs to be done to the house structurally to support the*
3 *roof; the modular system only needs to be put up.*

- 4 ▪ What is the drainage doing now? Are there gutters that were added to the
5 building? *Mr. Hadfield responded the gutters were added and they would be*
6 *there whether it is a sod roof or not.*
- 7 ▪ You're using a different drain? *Mr. Hadfield responded they are using the*
8 *GreenGrid modular system and it doesn't need a gutter system.*
- 9 ▪ That design doesn't usually need a gutter, but now that you're not putting it in,
10 that amount of roof is going to create a lot of runoff. Where is that runoff going?
11 *Mr. Hadfield responded they will have very extensive dissipaters at the back of*
12 *the house and no runoff will be allowed onto the front of the house.*

13
14 The public testimony period was opened. There being no audience members wishing to
15 speak, the public testimony period was closed.

16
17 Commission questions to Staff:

- 18 ▪ Regarding the letter from Wolfback Associates, is it within the purview of the
19 Planning Commission to condition a time limit to complete the sod roof, or should
20 that be left between the Applicant and Wolfback Associates? *Staff responded the*
21 *Commission could condition it so that a sod roof is installed by the end of the*
22 *2010, or they could approve it as a tar and gravel roof and leave it to Wolfback*
23 *Association to determine if and when a sod roof will be installed.*
- 24 ▪ If we decide to condition it for the sod roof to be installed by the end of 2010 and
25 the Owner sells the house prior to 2010 and the sod roof has not been installed
26 yet, can note be made of the fact that the buyer must be aware that a sod roof
27 has to be installed at some point? *Staff responded yes, and the most effective*
28 *way to do that would be to add wording on the deed or record something against*
29 *the property notifying future buyers of the condition they would be buying into*
30 *and make sure the Owner knows he needs to do this prior to selling the house.*

31
32 Mr. Hadfield comment:

- 33 ▪ It is his preference to leave this as an issue to be resolved with the HOA. He'll
34 have to notify future buyers of his agreement with the HOA anyway as part of the
35 disclosures. What is important to them is that they get their Certificate of
36 Occupancy so they can close on the financing.

37
38 Commission questions to Staff:

- 39 ▪ In connection with residential real property transactions, is it customary for
40 buyers to do due diligence by going through public records relating to that
41 property as is done with commercial properties? *Staff responded they have*
42 *property inspection reports which provide the permit history and any outstanding*
43 *non-conformities or other issues and they are required to be requested before*
44 *the property transfers.*
- 45 ▪ Would this particular condition to install the sod roof by the end of 2010 show up
46 on the particular report that is customarily obtained in connection with residential
47 sales? *Staff responded the Residential Building Report mainly addresses*
48 *building permit issues. This could possibly fall through the cracks due to this its*
49 *unusual nature.*

1 City Attorney Mary Wagner comments:

- 2 ■ At best it would make reference to the fact that there is a CUP applicable to the
3 property and it would be up to the buyer to pull the CUP and read the conditions.
4 It would not be unusual for the HOA itself to have the ability to cause a document
5 to be recorded against the property if there has been some kind of modification to
6 or an exception given.
7

8 Commission comments:

- 9 ■ Taking the City Attorney's comments into account I think the HOA will probably
10 make some reference to it that will go into the file. I don't think it is something we
11 need to condition.
- 12 ■ The sticking point is that we're potentially getting ourselves in between the HOA
13 and the Owner. If we take the position that everything is okay now that we have a
14 roof that was not approved we'd be saying we're okay with it when what we're
15 okay with is we've got a roof on it for now. If we say this is okay and we're going
16 to let it go between the Owner and the HOA, then we're in the position of we've
17 waived that condition and approved this project as it is even though we know it's
18 contrary to the HOA and what we approved. I would like to see it come back at
19 the same point the homeowners association wants to see it so we can weigh in
20 on the issue. I want to issue the Certificate of Occupancy, but amend the
21 condition so the Owner reports back here at least by the end of 2010.
22

23 Commission question:

- 24 ■ Is it appropriate to amend their existing permit to require that they have a sod
25 roof no later than the end of 2010 and let them continue with their tar and gravel
26 roof until it's replaced in accordance with that condition and then let it go? If there
27 is no sod roof by the end of 2010 they are in breach of this condition and they've
28 got the same problem with the homeowners association at the same time. *Chair*
29 *Keller responded the Planning Commission could condition that.*
30

31 Commission comment to Mr. Hadfield:

- 32 ■ If we do condition a sod roof by the end of 2010 you still have the option to return
33 at a later stage and plead your case if you're not able to get it done by then.
34 We're trying to move this along so you can take occupancy and have the existing
35 gravel roof until you can afford to install the sod roof.
36

37 Staff comment:

- 38 ■ Staff has currently issued a temporary Certificate of Occupancy in the hopes that
39 would allow the Applicant to close his financing. If the Commission were to
40 establish a Condition of Approval requiring a sod roof by the end of 2010, Staff
41 would continue to have a temporary Certificate of Occupancy to make sure the
42 Applicant complies, and I am not sure that would get the Applicant to where he
43 needs to be on his financing.
44

45 Mr. Hadfield comment:

- 46 ■ The temporary Certificate of Occupancy is not satisfactory to his bank to close on
47 the financing. They need a final Certificate of Occupancy, non-conditioned.
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1 Commission question to Staff:

- 2 ▪ Do we have some kind of fee or penalty for non-compliance? That would be
3 another way that such a decision by the Planning Commission could have teeth
4 without holding the Applicant's financing hostage. *Staff responded they are*
5 *working with the Code Subcommittee of the City Council to put together a*
6 *construction time limits ordinance and will probably come to the Commission in*
7 *May, but that's not in place right now and is not applicable.*
8

9 Commission comment:

- 10 ▪ What could apply is code enforcement to say if you haven't installed the sod roof
11 by the end 2010 and you haven't come in and modified your condition Staff could
12 issue a Code Compliance Letter, and if you don't come into compliance within a
13 30-day timeframe by applying for a modification to the condition or putting in the
14 roof, then you incur daily fines as listed in the Municipal Code until you come into
15 compliance.
16

17 Staff comment:

- 18 ▪ The Staff preference for using the Temporary Certificate of Occupancy approach
19 is that the City has a hook on an Applicant, whereas if it's code enforcement
20 issue, the burden shifts to the City to go after the Applicant. However, we could
21 issue a final Certificate of Occupancy with the condition to install the sod roof by
22 the end of 2010 and then use the code enforcement program to ensure
23 compliance, but from the Staff perspective that approach is less desirable.
24

25 Commission question to Mr. Hadfield:

- 26 ▪ If you got your final Certificate of Occupancy, does that put you in a better
27 position with your bank to get permanent financing and the likelihood of you
28 being able to install the sod roof at some point? *Mr. Hadfield responded that*
29 *doesn't change the short-term position, that just allows him to finalize his*
30 *financing and pay the bills due to contractors and subcontractors, but it doesn't*
31 *put him closer to being able to install the sod roof.*
32

33 Commission comments:

- 34 ▪ I don't want to put the Owner in a difficult position because he's not putting a sod
35 roof on when only a few of his neighbors can see the roof and Staff has said they
36 can make the findings to approve a Design Review Permit with a tar and gravel
37 roof.
38 ▪ I don't know if whatever we do gets him off the hook with the HOA. If he came to
39 us in the first instance I would give due deference to the CC&Rs of the
40 homeowners association, which we don't have in front of us tonight, but we have
41 a letter from the HOA stating the Owner represented to them at time of purchase
42 that he would install a sod roof. I don't know if that's the only alternative that the
43 HOA approves or not; that's the type of information I'd want to consider if this
44 came to me in the first instance.
45 ▪ The reality of CC&Rs like that is it's a symbiotic relationship between the HOA
46 and the City. As long we know what's in the CC&R, they don't expect us to
47 approve something that would violate that, because that puts the burden on the
48 HOA to take civil action to enforce that. I think if those CC&Rs were in front of us
49 and we knew the sod roof was in front of us through the homeowners association
50 we would not approve anything other than a sod roof.

- 1 ▪ I was looking for a solution whereby we could go along with the agreement with
2 the homeowners association to install a sod roof by the end of 2010. If the
3 Applicant disagrees with that or wants something different, then he can come to
4 us with a new request and evidence to support it, and give Wolfback Associates
5 an opportunity to be heard.
- 6 ▪ I am leaning towards granting the Certificate of Occupancy and putting
7 something in writing with regard to code enforcement pertaining to the sod roof at
8 some point in the future. That puts it in writing that we are aware of this and the
9 HOA can take it further if they want. It also takes the onus off the Planning
10 Department to have what we're doing consistent with what the HOA is doing.

11
12 Commission questions to Mr. Hadfield:

- 13 ▪ Are you telling us you want your Certificate of Occupancy and you're not willing
14 to agree to say you'll come back? *Mr. Hadfield responded he's trying to find a*
15 *simple solution. He has discussed this with the HOA and they are fine with things*
16 *as they are. He wants the Planning Commission to allow him to close on his*
17 *financing and deal with one issue at a time. He's not saying he won't deal with*
18 *this issue, but he can't promise today to install the sod roof; he needs to see how*
19 *things progress.*
- 20 ▪ Did you represent to Wolfback Associates that you would install the sod roof by
21 the end of 2010, as they represent in their letter? *Mr. Hadfield responded he told*
22 *Wolfback he would install the sod roof as soon as they were financially able and*
23 *Wolfback gave them two years. Wolfback asked if he considered that reasonable*
24 *and he thought that was as reasonable as he could ask them to be.*

25
26 Commission comment to Mr. Hadfield:

- 27 ▪ If we give you the Certificate of Occupancy we have no enforcement, so if you
28 don't install the sod roof it's between you and the homeowners association. One
29 of our concerns is to not get on the wrong side of the HOA. It seems to me you
30 could agree to come back no later than December 31, 2010 and tell us you have
31 a sod roof on the house or you don't. *Mr. Hadfield responded it's not his*
32 *preference, but if that's the best he's offered then he'll take it. His primary goal*
33 *right now is to get the Certificate of Occupancy. His preference is to keep this a*
34 *matter between himself and the HOA.*

35
36 Commission questions to Staff:

- 37 ▪ We would simply be amending the Condition of Approval we have? Did we have
38 anything about the sod roof? *Staff responded the Condition of Approval was*
39 *written on the basis that a tar and gravel roof is approved. There is no wording*
40 *about returning to the Commission or later installation of a sod roof, so if the*
41 *Commission wanted to ensure the Applicant comes back to the Commission or a*
42 *sod roof is installed by the end of 2010, a new condition should be added. If the*
43 *sod roof is installed by the end of 2010 there is no reason to come back to the*
44 *Commission. It would come to Staff and a Certificate of Occupancy would be*
45 *issued upon passing of a building inspection.*
- 46 ▪ Can't we just add a condition here he will install a sod roof by the end of 2010
47 and if it doesn't happen he is in breach of that condition and we turn it over to
48 code enforcement and in the meantime he can have his tar and gravel roof?
49 *Staff responded yes, that is an option.*

1 **Chair Keller moved and Commissioner Stout seconded a motion to approve a**
2 **Design Review Permit for the substitution of a gravel roof for a native grass roof**
3 **on the single-family residence at 61 Wolfback Ridge with the conditions as**
4 **written and as amended. The motion passed 5-0.**
5

6 **Communications**

- 7 ▪ Staff—An appeal was filed by Mr. and Mrs. Murphy regarding the DeSantis
8 project and is tentatively scheduled for hearing by the City Council on May 5,
9 2009.
- 10 ▪ Staff—An appeal was filed regarding The Purity Market/Chris Henry second story
11 office and is scheduled for hearing by the City Council on April 7, 2009.

12
13 **Adjournment**

14 The meeting was adjourned at 7:40 p.m.

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16
17 /s/ JEREMY GRAVES
18 Submitted by
19 Jeremy Graves, AICP
20 Community Development Director

 /s/ BILL KELLER
Approved by
Bill Keller
Chair

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