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SAUSALITO PLANNING COMMISSION
Wednesday, December 16, 2009
Approved Minutes

Call to Order

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

Present: Chair Bill Keller, Vice Chair Stan Bair, Commissioner Joan Cox,
Commissioner Stafford Keegin

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

Approval of Minutes

Chair Keller moved and Commissioner Cox seconded a motion to move the Approval of Minutes until the end of the meeting. The motion passes 4-0.

Approval of Agenda

Chair Keller moved and Commissioner Cox seconded a motion to approve the agenda as amended. The motion passed 4-0.

Public Comments

None.

Public Hearings

1. **ENV 08-011, Initial Environmental Study/Mitigated Negative Declaration (IES/MND), Bruce, 109/111 Marion Avenue.** Initial Environmental Study/Mitigated Negative Declaration (IES/MND) which addresses the environmental impacts associated with the subdivision of an existing 14,022 square foot parcel into two parcels; the construction of an approximately 2,504 square foot three-story residence at the southern portion of the lower parcel; a driveway encroachment into the Sausalito Boulevard right-of-way and existing encroachments into the Marion Avenue right-of-way; the installation of steps which would complete a partially installed walkway in the South Street right-of-way between Edwards Avenue and Marion Avenue; and the removal of trees at 109/111 Marion Avenue (APN 064-087-07).

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

Commission questions to Staff:

- Will verbal comments made by the Commission and the public at Planning Commission meetings be incorporated and addressed in Staff's response to comments? *Staff responded yes.*

- 1 • Does staff have a list of comments it will respond to? *Staff responded they will*
2 *utilize the meeting minutes to compile that list, but they have not done so yet.*
3

4 The public comment period was opened.
5

6 Paula Bruce, 109/111 Marion Avenue, indicated the following:
7

- 8 • She is the owner of the subject property.
9 • She would request the meeting be continued to the Commission meeting of
10 January 6, 2010. *Staff responded there would not be enough time to include*
11 *her project in the January 6th meeting agenda.*

12 The public comment period was closed.
13

14 **Chair Keller moved and Commissioner Cox seconded a motion to close the**
15 **public comment period on the IES/MND and direct staff to prepare responses to**
16 **the comments. The motion passed 4-0.**
17

- 18 **2. TM/DR/EA/TR 08-011, Tentative Parcel Map, Design Review Permit,**
19 **Encroachment Agreement, Tree Removal Permit, Bruce, 109/111 Marion**
20 **Avenue.** Tentative Parcel Map and Design Review Permit to subdivide an
21 existing parcel into two parcels and construct a new single-family residence at
22 109/111 Marion Avenue (APN 065-263-04). The new parcels will be
23 approximately 8,400 and 5,622 square feet in area. The proposed three-story
24 residence would be approximately 2,504 square feet in size. Encroachment
25 Agreement for a driveway encroachment into the Sausalito Boulevard right-of-
26 way and existing encroachments into the Marion Avenue right-of-way. Tree
27 Removal Permit to remove protected trees on the subject site. The installation of
28 pedestrian steps that would complete a partially installed walkway in the South
29 Street right-of-way between Edwards Avenue and Marion Avenue.
30
31

32 The public hearing was opened. Associate Planner Schinsing presented the Staff
33 Report.
34

35 Commission questions to staff:

- 36 • If the side yard on the south side of the lot become the rear yard would the
37 building need to move 5 feet further northward down the hill? *Staff responded*
38 *that is correct.*
39 • What is the 4 foot reduction for? *Staff responded if the house were shifted 5*
40 *feet down the hill it would still encroach into the rear yard setback by 4 feet, so*
41 *the width of the house would need to be reduced by 4 feet or the applicant*
42 *would need to apply for a variance in order to comply with the 15-foot rear yard*
43 *setback.*
44 • Is there room to the right for the house to be elongated? *Staff responded that is*
45 *correct. The side yards would be along the Marion Avenue right-of-way and the*
46 *west property line. There is a required 5-foot side yard setback and a zero front*
47 *setback.*
48
49

50 The public comment period was opened.

1 William Spencer, project architect, indicated the following:

- 2 • It is important to stay with the current plan with the front yard on Marion
- 3 Avenue to move the project forward.
- 4 • The position of the building maximizes the view potential of the neighbors
- 5 above.
- 6 • His client is willing to approve the South Street walkway with concrete. They
- 7 suggest the use of pre-cast concrete slabs that would be anchored to the soil.
- 8 • After seeing the slope he feels comfortable the steps can be placed there and
- 9 asks that they not have to provide a complete accurate topography and layout
- 10 at this point as requested by staff.
- 11 • Staff's suggested mitigation for the encroachments in Marion Avenue, taking
- 12 out the brick paving, would be particularly difficult to achieve. Something would
- 13 need to replace the pavement to offset any erosion.
- 14 • Can they provide the City a 100% performance bond in lieu of the 200%
- 15 deposit recommended by the City Engineer? *The City Engineer responded the*
- 16 *City accepts performance bonds as assurances, but staff would still*
- 17 *recommend 200% given the technical challenges of this particular site.*
- 18
- 19

20 Commission questions to Todd Teachout, City Engineer:

- 21 • If the applicant gets a performance bond would you like it to be double the
- 22 amount estimated for structural and excavation work to cover work that could
- 23 easily run over? *Mr. Teachout responded yes.*
- 24 • Upon completion of the structural and excavation work, what happens to the
- 25 additional money if the costs do not run over the estimate? *Mr. Teachout*
- 26 *responded staff would release the assurances, whatever form they take.*
- 27 • If the assurance is in the form of a Letter of Credit for twice the amount of the
- 28 estimate and two-thirds of the way through the work the City determines the
- 29 project will be completed within the original cost estimate, can the City begin to
- 30 release some of the money held and could that be taken down to 115% of the
- 31 original estimate? *Mr. Teachout responded yes, they could begin to release the*
- 32 *money and to the extent risk factors are addressed they would drop it down to*
- 33 *a 15-20% amount. Staff responded as those excavation and foundation*
- 34 *portions of the work are completed the City will only hold onto what is*
- 35 *necessary to complete the remaining work.*
- 36
- 37

38 Comment by Mr. Spencer:

- 39 • The 200% figure is based on the assumption the final design and engineered
- 40 drawings will be very complex. It would be fair for the City Engineer to examine
- 41 the drawings when they are available to see if they really need to be at 200%.
- 42

43 Commission question to Mr. Spencer:

- 44 • Staff is not recommending the removal of the existing retaining walls but only
- 45 stone stairs and pathways and the brick patio paving. If you focus on just
- 46 those, do you think it is doable? *Mr. Spencer responded he would not like to*
- 47 *see removal of any of those elements, as they would all be detrimental to the*
- 48 *slope if removed.*
- 49
- 50

1 Paula Bruce, Applicant, 109/111 Marion Avenue, indicated the following:

- 2 • It is not true that this would set a land use precedent to allow the patios to stay.
3 A precedent was set in 1959 when Ida Hollings was given the right to install the
4 staircase on the other half of the city street and the driveway.
- 5 • If the fence is not allowed she would like to remove it and return the property to
6 the same condition it was when she moved there and not be required to put a
7 fence on the property line through the trees, which would be an extra expense.
- 8 • It would be an undue hardship on her to be required to remove that patios and
9 retaining walls, et cetera, especially as she did not install any of it.
- 10 • The 200% deposit on structural work costs would place undue hardship on her
11 in these economic times.
12

13 Commission questions and comments to Ms. Bruce:

- 14 • What would happen if you encountered an unforeseen condition? Would you
15 have the finances to mitigate and handle it if it doubled the cost for
16 excavation? *Mr. Bruce responded she wouldn't start the excavation or project*
17 *unless she had enough financing to do that.*
- 18 • If you were going to have the financing, then a Letter of Credit would satisfy
19 the condition. *Ms. Bruce responded but it would tie up her funds.*
- 20 • Your funds would only be tied up until the end of the excavation period and
21 then they would be released. If you were only required to put up 100% and
22 then encounter problems resulting in huge cost overruns it puts both you and
23 the City in a difficult financial position. A deposit of 200% percent protects both
24 you and the City.
- 25 • This is a very difficult and expensive project. There is a lot of excavation work
26 and structural work on a very steep slope. Staff is recommending the 200% to
27 be sure you are aware of the complexity. *Ms. Bruce responded she is aware of*
28 *the complexity, but still feels 200% is harsh and does not seem to be the*
29 *norm. The staff report indicates only three residential projects since 2006*
30 *where there were problems. She would like the Commission to consider her*
31 *architect's suggestion to look at the project further when plans are finalized.*
32
33

34 Steve Frasier, Applicant's attorney, indicated the following:

- 35 • His concern is the frontage issue. If the Commission decides at this late date
36 that the house has to front on a different street than conditioned it will send this
37 project back to the earliest planning stages and leave the applicant financially
38 unable to continue.
- 39 • It would make no sense to remove the patios and steps due to the erosion
40 issue. He would like to see trees planted in the area to provide further stability
41 to the hillside.
- 42 • The public would enjoy using those elements.
- 43 • The 200% deposit is too extreme. Many houses in Sausalito are built on steep
44 slopes. An alternative would be 150% or less.
45
46

47 The public comment period was closed.
48
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1 Commission comments:

- 2 • We should not erect more obstacles in front of this applicant. We should keep
3 Marion Avenue as front property line and continue with staff's plans.
- 4 • This issue was not raised to create an obstacle, but it cannot be ignored
5 because the Commission has a duty to comply with the regulations, which do
6 not define Marion Avenue as a "street."
- 7 • Although not convinced Marion Avenue is a "street" we should not deny the
8 project on that basis, especially given the long history of this project.
9

10 Commission questions and comments to the City Engineer:

- 11 • The patio bricks should stay in place. It has been there over 40 years and
12 would be a hardship to remove. The brick paving could act to help keep the
13 hillside stabilized. *Mr. Teachout responded he doesn't believe removing bricks*
14 *would have a significant effect. The patio area has been commandeered and if*
15 *the public tries to use the patio they are being chased off. Staff suggests*
16 *leaving the patio area as is would be inappropriate.*
- 17 • Are you aware of instances where the public has been chased off the
18 property? *Mr. Teachout responded he has been told that neighbors have*
19 *reported they've been asked to leave, although he cannot verify it.*
- 20 • Did you recommend the concrete stairs going between Marion and Edwards
21 where it is now plank and dirt? Have you considered whether concrete stairs
22 are necessary there? *Mr. Teachout responded staff recommends development*
23 *of the stairway. It is his expectation that not only the treads would be concrete,*
24 *but also it would be in a firm foundation embedded into the hillside, a system*
25 *that is durable and low maintenance.*
- 26 • Does the City now maintain the wood and dirt planks of that stairway? *Mr.*
27 *Teachout responded only the barest minimum.*
28
29

30 Commission comments:

- 31 • If the Commission requires the applicant to install a permanent fence with
32 gates on the property line on the east side of the property she will need to
33 remove some of the brick anyway. A fence should go in along that property
34 line.
- 35 • The bricks and deer fence should be removed as they lead the public to
36 believe it is private property.
- 37 • Although the bricks make the patio and pathways seem private they should not
38 be removed. Instead a sign should be erected that would encourage the public
39 to use the area.
- 40 • One option would be to leave a majority of the patio but remove the portion
41 within the public right-of-way directly behind the fence 2-3 feet so it gives more
42 of a public access impression. The direct access from the applicant's property
43 onto the patios should be removed 2-3 feet so the public can see there are
44 patios there with no direct access from any one particular property.
- 45 • If the applicant is required to erect a fence, the portion of the patio can be
46 removed at the same time as the fence is being built, which would not be a
47 burden to the applicant.
48
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1 Staff comment:

- 2
- 3 • The property owner is asking for a Landscape Maintenance Agreement to
4 landscape in the right-of-way, as she has been doing. Staff is in general
5 support, although the Engineering staff would like the agreement to be fleshed
6 out.

7 Commission question to staff:

- 8
- 9 • Why do we need to have the full map now for the staircase? *Staff responded*
10 *there are several issues that need be addressed before construction begins:*
 - 11 ○ *Depending upon the grade there may be a need for the stairs to have*
12 *switchbacks. Adjacent property owners need to be made aware of the*
13 *design of those stairs before the property is approved so they can express*
14 *any concerns to the Planning Commission.*
 - 15 ○ *An adjacent property owner with an access gate to the walkway must be*
16 *taken into consideration.*
 - 17 ○ *Residents on the South Street right-of-way have testified they perceive a*
18 *loss of privacy.*

19 Staff comment:

- 20
- 21 • Staff recommends the stairs run the entire length from the bottom of the
22 existing concrete stairs all the way down to Edwards Avenue.

23 Commission comments:

- 24
- 25 • We should not impose more stringent requirements on this applicant than we
26 have imposed on others. The applicant who had to build the top portion of the
27 concrete staircase was not required go all the way down to Edwards Avenue or
28 to improve the existing stairs. *Staff responded they recommended a good*
29 *staircase the entire length of the right-of-way. From a planning perspective it*
30 *wouldn't make sense to have the missing link put in there and then continue to*
31 *use the dilapidated stairs on the downhill end of the right-of-way.*
 - 32 • I am comfortable reducing the assurance to 150%, as requested by the
33 applicant, but share staff's concern regarding this very steep property.
 - 34 • We should consider the architect's suggestion that once final engineering
35 drawings are submitted to the City Engineer leave it to Engineer to determine
36 what the assurance is likely to be up to a certain amount and give him the
37 flexibility to keep it at 200% or reduce it to whatever percentage he deems
38 appropriate.
 - 39 • The Commission has approved other projects on very steep, difficult slopes
40 without this particular Condition of Approval.

41 Staff comment:

- 42
- 43 • Staff's concern is not with man-made conditions but with the unknown existing
44 natural conditions. The site's geologic formation is highly variable and the risk
45 factors lie in the variability of the geology.

46 Commission questions to staff:

- 47
- 48 • If the City Engineer decides the assurance percentage after the plans have
49 been finalized and the applicant is unhappy with that decision, can she appeal
50

1 that to the Planning Commission? *Staff responded if the Condition of Approval*
2 *is that the City Engineer can require the 200% assurance then that is the*
3 *Condition of Approval and that is what the applicant will need to provide.*

- 4 • Even with final plans is there is still a level of uncertainty and variability
5 regarding the slope that cannot be resolved? *Mr. Teachout responded that is*
6 *correct.*

7
8 Commission comments:

- 9 • There will be opportunity to reduce the assurance percentage amount, but in
10 the end the project will be more than the 200% when it is complete. To set that
11 money aside now and rebate it later when the structural work is complete
12 protects everyone, including the applicant.
13 • The Commission's recommendation is to agree with the City Engineer requiring
14 a 200% assurance with the requirement to reduce that amount once the
15 excavation and construction of the foundation is complete to cover the
16 remaining portions of the work.
17 • The applicant should construct the stairs in accordance with City Engineer's
18 recommendations.
19

20
21 **Vice Chair Bair moved and Commissioner Cox seconded a motion to continue the**
22 **public hearing for 109/111 Marion Avenue, Items 1 and 2, to the meeting of**
23 **January 20, 2010. The motion passed 4-0.**

- 24
25 **3. DR/TR 09-017, Design Review Permit, Tree Removal Permit, Revilock, 160**
26 **Curry Avenue.** Design Review Permit and Tree Removal Permit to demolish an
27 existing single-family residence and construct a new 3,748 square foot residence
28 at 160 Curry Avenue (APN 064-232-11).
29

30 The public hearing was opened. Associate Planner Heidi Burns presented the Staff
31 Report.
32

33 Commission question of staff:

- 34 • How far away is the neighbor who expressed concern about the skylight? *Staff*
35 *responded the house is set up on a hill 200 feet away from the property line at*
36 *235 Curry Lane.*
37

38 Presentation was made by Will Revilock, the owner and applicant.
39

40 Commission questions to Mr. Revilock:

- 41 • Would you be opposed to louvers on the skylight as a mitigation measure? *Mr.*
42 *Revilock responded no.*
43 • The Staff Report calls this project a demolition, but are you saying you do not
44 plan to demolish the whole residence? *Mr. Revilock responded they would*
45 *demolish 80-90% of it but save and reuse certain portions of the foundation*
46 *and incoming water and gas lines.*
47 • Why are there garage doors on both sides of the garage? *Mr. Revilock*
48 *responded for convenience to access the garage from different parts of the*
49 *property.*
50

- A section of the house extends up into the canopy of the Coast Live Oak; it looks like that part of the canopy will have to be removed, which could have negative impact on the life of the tree. Has an arborist reviewed that tree, and if so, what was his or her recommendation? *Mr. Revilock responded the Marin arborist has seen the tree three times in the last three years and has stated he could trim it without negative effects.*
- Do you intend the decks to be wood, and if so, what kind? *Mr. Revilock responded the decks are wood and he would probably use cedar.*

The public comment period was opened.

Sandra Schwartz, 235 Curry Lane, indicated the following:

- She and her husband live on the west side of Curry Lane and look downhill onto the subject property.
- She and her husband sent photographs to the Planning Commission.
- She suggests pivoting the house so the windows are moved.
- Glazed windows or louvers are good ideas for the skylight. Draperies not a permanent solution.
- For outdoors lighting, she suggests small copper lights used by many in the area that are effective but not intrusive.

Commission questions to Mrs. Schwartz:

- You are mostly concerned about reflective light from the new residence and not blockage of your views? *Mrs. Schwartz responded that is correct.*
- Would you agree to some type of green screening, such as bamboo or another fast-growing tree that would grow to 15-20 feet on that side of the property to give privacy to both you and the applicant? *Mrs. Schwartz responded yes.*

Commission question to staff:

- Does the City typically ask that any outdoor lighting project reflect downward? *Staff responded there is a standard condition that requires exterior lighting to be shielded and downward facing.*

Pat Glagola (phonetic), 2 Crecienta Drive, indicated the following:

- He lives uphill and across the street from the subject property.
- He supports the project, but is concerned about light reflecting from the glass and hopes it can be mitigated.

Jimmy Go (phonetic), 26 Crecienta Drive, indicated the following:

- He lives uphill and across the street from the subject property.
- He supports the project, but is concerned about the south side window.

The public comment was period was closed.

Commission comments:

- The design is blocky and is not the same as the dwelling in the photographs the applicant supplied, which has a more lineal shape.

- The horizontal wire railing around the deck is very dangerous to children, because they will climb it.
- A more horizontal design for the house might take care of a lot of the problems regarding privacy and lighting.
- The house will not look as blocky when built because of the number of windows.
- Agree with suggestion of louvered skylights and a green screening of the windows. Fast-growing bamboo sounds like a great solution.

Commission question to staff:

- If a protected tree such as a Coast Live Oak is removed, does it need to be replaced three to one. *Staff responded the Tree and Views Ordinance doesn't state three to one, but that can be conditioned by the Commission if they desire.*

Commission comments:

- Don't think three to one tree replacement for protected tree is necessary in this case, because there is a lot of greenery on the property.
- There needs to be a landscaping plan regarding the privacy issues.
- There needs to be a plan to mitigate the reflective light from the skylight for 235 Curry Lane uphill and 2 Crecienta Drive next-door. The way the skylight is angled, it will definitely throw off light uphill, and it runs the full length of the building.

Commission questions and comments to Mr. Revilock:

- What is the length of the skylight? *Mr. Revilock responded the skylight does not run the full length of the house, but it runs 40 feet.*
- There is a large expanse of skylight that will throw off a lot of light no matter how the lamps inside are directed and it will reflect up at night. We would like to see a solution such as louvers inside. *Mr. Revilock responded that is acceptable to him.*
- Another concern is the privacy of the downhill neighbors because you are removing the Coast Live Oak that is between you and that residence. Because the neighbor's area of concern is right where that oak is coming out, maybe it should be conditioned that it be replaced with three trees to ensure a good green screening.
- Do you plan to plant anything in the area on the downhill slope between your property and the neighbor below? *Mr. Revilock responded he is not opposed to that.*

Conditions of Approval:

- A solution pertaining to the skylight relative to the uphill neighbors.
- A green privacy screening that can grow to 20-30 feet on the north side as it pertains to 235 Curry Lane.
- Landscaping in the area between the residence and the neighbors below.

1 **Chair Keller moved and Commissioner Cox seconded a motion to approve a**
2 **Design Review Permit and Tree Removal Permit for 160 Curry Avenue with the**
3 **Conditions of Approval as noted. The motion passed 3-1 (Keegin-No).**
4

5 **4. Planning Commission Meeting Calendar for 2010.**
6

7 **Commissioner Cox moved and Vice Chair Bair seconded a motion to approve the**
8 **calendar as proposed. The motion passed 4-0.**
9

10 **Approval of Minutes**

11 March 4, 2009 November 18, 2009
12 October 28, 2009 December 2, 2009
13 November 4, 2009
14

15 **Vice Chair Bair moved and Chair Keller seconded a motion to approve the**
16 **minutes, as amended. The motion passed 4-0.**
17

18 **Old Business**

19 None.
20

21 **New Business**

22 None.
23
24

25 **Communications**

- 26 • Commission—The Housing Element Committee met for the first time on 12/15/09
27 and plans to put together a Housing Element by the end of 2010.
28

29 **Adjournment**

30 The meeting was adjourned at 10:13 p.m.
31
32

33 /s/ JEREMY GRAVES

34 Submitted by
35 Jeremy Graves, AICP
36 Community Development Director
37

33 /s/ BILL KELLER

34 Approved by
35 Bill Keller
36 Chair
37

38 CDD\Plan Comm\Minutes\2009\12-16-09-Approved
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