

SAUSALITO TREES & VIEWS COMMITTEE
Monday, September 13, 2010
Draft Minutes

Call to Order

Chair Colfax called the meeting to order at 7:00 p.m. in the Edgewater Room of City Hall, 420 Litho Street, Sausalito.

Present: Chair Grant Colfax, Vice Chair Mary Lee Bickford,
Committee Member Betsy Elliott, Committee Member Wingham Liddell,
Committee Member Ronald Reich

Staff: Community Development Director Jeremy Graves
Assistant Planner Alison Thornberry, City Attorney Mary Wagner

Approval of Agenda

Chair Colfax indicated Agenda Item 2 would be heard first.

Committee Member Elliott indicated she was a friend of Kelly Armstrong, property owner for Item 2, 63 Central Avenue, but she had no financial interest in the project.

Approval of Minutes

None.

Public Comments

None.

Public Hearings

- 2. TR 10-192, Tree Removal Permit, Armstrong, 63 Central Avenue.** Removal of one Coast Live Oak tree located on the property at 63 Central Avenue (APN 065-201-11).

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

Committee question to Chris Lamb, the applicant:

- What other kind of trees are there on the property? *Mr. Lamb responded the only trees in the construction area are the tree in question and another Coast Live Oak growing up through the deck. All other trees are on a 45-degree slope. There may also be a tree above the garage.*
- Has the retaining wall been replaced? *Mr. Lamb responded yes, except for one part of it, a pier that goes under the subject tree. The tree needs to be removed so the retaining wall replacement can be completed.*

The public comment period was opened. Being none, the public comment period was closed.

1 **Committee Member Elliott moved and Committee Member Reich seconded a**
2 **motion to approve a Tree Removal Permit for 63 Central Avenue. The motion**
3 **passed 5-0.**

4
5 **Committee Member Reich moved and Committee Member Bickford seconded a**
6 **motion to require the planting of a replacement tree. The motion passed 4-1 (No –**
7 **Elliott).**

8
9 Staff question to the Committee:

- 10
 - Does the Committee want to give staff direction with respect to the type, size,
11 and location of the replacement tree?

12
13 Comment from Mr. Lamb:

- 14
 - There is no place to plant a replacement tree due to a slope of at least 45-
15 degrees on the property. If the arborist had believed the subject tree should be
16 replaced, he would have stated that in his report.

17
18 Committee comments:

- 19
 - The Committee usually tries to replace trees that have been removed and does
20 not agree that the property is too sloped to plant a replacement tree.
 - The subject tree should be removed and construction completed, then the
21 homeowner can decide the type, size, and location of the replacement tree
22 within 90 days of the completion of construction.
 - A Live Oak is being removed and there is a second Live Oak growing through
23 the deck that the arborist has determined has problems and may have to be
24 removed. There are several other Live Oaks growing in the neighborhood. If
25 these trees come down and are replaced with different species the inherent
26 value and look of the community will be lost. Therefore the replacement tree
27 should be a Live Oak.
 - The subject tree should be removed now, but the decision on type, size, and
28 location of the replacement tree should be tabled until the Committee can visit
29 the site and make a recommendation.

30
31 Staff comment:

- 32
 - If the Committee defers decision regarding the replacement tree, a Condition of
33 Approval for the tree removal needs to be established that the applicant will
34 come back to the Committee within X number of days with a proposal for
35 review.

36
37 **Committee Member Elliott moved and Committee Member Reich seconded a**
38 **motion for the Condition of Approval for the planting of a replacement tree to**
39 **specify that the replacement tree shall be a Live Oak with a minimum 24-inch box**
40 **size and planted within ninety days in a location to be determined by the property**
41 **owner. The motion passed 5-0.**

- 42
43
44
45
46
47
48 **1. TR 10-170, Tree Removal Permit, Back View Claim, 230 Glen Drive.** View
49 claim regarding the obstruction of views from the Claimant's property at 230
50 Glen Drive (APN 065-141-09) by trees located on the Tree Owner's property at

1 240 Glen Drive (APN 065-141-44). The Claimant seeks an advisory decision
2 regarding the restoration of unobstructed water views from 230 Glen Drive.
3

4 The public hearing was opened. Assistant Planner Thornberry presented the Staff
5 Report.
6

7 **Community Development Director Jeremy Graves indicated Suzanne Lempke and**
8 **Richard Dodder, the Tree Owners, are not able to attend this evening's meeting**
9 **and request the public hearing be continued to the meeting of October 7, 2010.**
10

11 Committee comments:

- 12 • The Claimant has a very valid issue of view, but there is the issue of privacy for
13 the Tree Owners, and the Committee needs to hear that, or else do a site visit
14 to look at it.
- 15 • The question is has the Committee done its due process? It is of concern that
16 the Committee does not know for sure if the Tree Owners knew the Committee
17 was trying to potentially visit their property recently and was not able to do so.
18

19 Len Rifkind, Counsel for the D. Duncan Trust, indicated the following:
20

- 21 • The Claimant, Ms. Back, is a representative of the D. Duncan Trust.
- 22 • The Committee is correct to be concerned about notice and due process, but
23 notice was given of this hearing and the Tree Owners clearly knew about it.
- 24 • The Tree Owners' request for a continuance is a stalling tactic.
- 25 • The Committee should hear the Claimant's presentation and then decide to go
26 forward or continue this hearing.
27

28 **Committee Member Reich moved and Committee Member Liddell seconded a**
29 **motion to continue the public hearing regarding the Back View Claim for 230 Glen**
30 **Drive and to allow staff to work with the Tree Owners, the Claimant, and the**
31 **Committee to ascertain a mutually agreeable date. If no mutually agreeable date**
32 **can be determined, the hearing should be continued to a date uncertain. The**
33 **motion failed 2-3 (No – Bickford, Colfax, Elliott).**
34

35 Presentation was made by Len Rifkind and Ted Kipping, Claimant's consulting arborist.
36

37 Committee questions to Mr. Kipping:

- 38 • When you say, "Get the view back," back to what time period do you mean?
39 *Mr. Kipping responded he would like to recover a reasonable view, what can*
40 *be seen from the deck by leaning to the right.*
- 41 • How big or long do the bamboo roots get? *Mr. Kipping responded he has*
42 *seen them go across two properties under pavement. But a root barrier can*
43 *prevent that, as the roots do not go very deep.*
- 44 • With the trimming of the Bay Laurel trees, is there any possibility of hurting
45 them permanently? *Mr. Kipping responded no.*
- 46 • Once the trees are trimmed back, how fast do they grow back so the view is
47 again impacted? How often do they need to be trimmed? *Mr. Kipping*
48 *responded it depends on the season, the year, and the temperature. From*
49 *the time of the last cut in 2007 to the beginning of 2009, about a year-and-a-*
50

1 *half, the trees had grown about 3-5 feet. In the subsequent year-and-a-half*
2 *they grew 5-7 feet.*

3
4 Committee question to staff:

- 5 • Are the roots of trees within the purview of the Trees & Views Committee?
6 *Staff responded they would have to look into that.*

7
8 Committee comments:

- 9 • If the Committee takes action this evening it would be without hearing from
10 the Tree Owners or an arborist of their choosing.
11 • The bamboo border was not addressed in the Staff Report, but it is in the
12 Claimant's Letter of Request.
13 • At one point the Trees and Views Committee did address roots, particularly
14 on trees, and made recommendations such as removing the tree.
15

16
17 **Committee Member Elliott moved and Committee Member Bickford seconded a**
18 **motion to make the finding to recommend trimming of the subject trees and**
19 **installation of a root barrier at 240 Glen Drive as requested by the Claimant to**
20 **restore unobstructed water views from 230 Glen Drive.**

21
22 Committee comment:

- 23 • With respect to the motion, the Tree Owners should be given the opportunity
24 to give testimony. The Committee is asking them to trim their trees when the
25 Committee has not been able to go on their property and see their
26 perspective in terms of their privacy.
27

28 Len Rifkind indicated the following:

- 29 • The Tree Owners have had ample opportunity to provide information to staff
30 and the Committee. There has not been one letter that speaks of their
31 privacy.
32 • The City did the noticing required by law. Due process has been met.
33

34 Bob Mitchell indicated the following:

- 35 • The Tree Owners are manipulating the system by not being here. There is no
36 need to come to an understanding of their lack of presence at this meeting.
37 Nothing is served by extending this process out to the detriment of the
38 Claimant.
39 • With respect to findings that need to be made, the City Attorney can come
40 back with a resolution stating findings. The Committee does not need to do
41 all that.
42

43
44 Committee comment:

- 45 • In the Committee's experience, when the two parties do not come together
46 and have a conversation and agree upon what is to be done, while following
47 due process, it prolongs the process further.
48
49
50

1 Len Rifkind indicated the following:

- 2 • The Tree Owners have had a copy of the arborist's report since it was done
- 3 in February 2009. There has been no written response from them or an
- 4 arborist of their choosing. There is no way they can be shocked by the
- 5 opinion of the arborist to restore the view to the historic cuts.
- 6

7 Committee comment:

- 8 • It is prohibited for an unreasonable obstruction of view to exist. Whether or
- 9 not the Tree Owners are at this meeting, the view is gone.
- 10

11 Staff comment:

- 12 • The Committee has two options:
- 13 o Take action tonight and direct staff to come back with a resolution at the
- 14 next meeting.
- 15 o Give staff direction to prepare such a draft resolution, keep the public
- 16 hearing open so the Committee can hear the Tree Owner's testimony,
- 17 and then decide at the next meeting whether to approve that resolution
- 18 or go in a different direction.
- 19

20 Committee question to staff:

- 21 • Can the Committee implement either of the options based on whether the
- 22 motion on the floor is approved? *Staff responded the motion is for the first of*
- 23 *the options.*
- 24

25 **The motion passed 3-2 (No – Liddell, Reich).**

26 **Old Business**

27 **3. Trees & Views Committee Procedures.**

28 **Committee Member Elliott moved and Committee Member Liddell seconded a**

29 **motion to continue discussion of the Trees & Views Committee Procedures to the**

30 **Meeting of October 7, 2010. The motion passed 5-0.**

31 **New Business**

32 None.

33 **Communications**

34 None.

35 **Adjournment**

36 The meeting was adjourned at 8:42 p.m.

37 _____

38 Submitted by

39 Jeremy Graves, AICP

40 Community Development Director

41 _____

42 Approved by

43 Grant Colfax

44 Chair