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SAUSALITO PLANNING COMMISSION
Wednesday, June 23, 2010
Approved Minutes

Call to Order

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

Present: Commissioner Joan Cox, Commissioner Stafford Keegin, Commissioner Bill Werner

Absent: Chair Bill Keller, Vice Chair Stan Bair

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

Commissioner Keegin moved and Commissioner Werner seconded a motion to appoint Commissioner Cox to serve as Chair for the meeting. The motion passed 3-0.

Commissioner Cox indicated that since there are three Commission members at the meeting in order for an application to be approved or denied there must be a unanimous vote of the three Commissioners.

Approval of Agenda

Commissioner Keegin moved and Commissioner Werner seconded a motion to approve the agenda. The motion passed 3-0.

Approval of Minutes

June 9, 2010

Approval of Minutes was postponed until the next Planning Commission meeting.

Public Comments

None.

Public Hearings

Old Business

- 1. DR/CUP 09-174, Design Review Permit, Conditional Use Permit, City of Sausalito, 300 Spencer Avenue.** Design Review Permit and Conditional Use Permit to establish a new wireless facility collocated with an existing wireless communications facility by installing a wall mounted equipment cabinet on the northeast side of the building and installing three new antennas, three microwave dishes, and associated equipment behind a new RF fiberglass screen enclosure which will match the existing roofing façade and screen the existing antennas on the rooftop of the Fire Station No. 2 building at 300 Spencer Avenue (APN 065-181-44).

1
2 **Community Development Director Graves indicated the Applicant had requested**
3 **the public hearing for 300 Spencer Avenue be continued to a date uncertain due**
4 **to the need for an architectural historian to evaluate the Fire Station No. 2**
5 **building.**

6
7 **Commissioner Cox moved and Commissioner Werner seconded a motion to**
8 **continue the public hearing for 300 Spencer Avenue to a date uncertain. The**
9 **motion passed 3-0.**

10
11 **2. DR/VA/CUP 10-043, Design Review Permit, Variance, Conditional Use**
12 **Permit, Ansari and Halawa, 317-319 Johnson Street.** Design Review Permit,
13 Variances, and Conditional Use Permit to construct an addition, construct a
14 second residential unit, and to allow a restaurant at an existing mixed-use
15 commercial building at 317-319 Johnson Street (APN 065-061-07). The Design
16 Review Permit is to allow the enclosure of an existing second floor deck. The
17 Variances are to allow relief from providing three on-site parking spaces, and
18 complying with the minimum density standards to allow for a second residential
19 unit. The Conditional Use Permit is to allow for a restaurant use within the
20 Commercial Residential (CR) Zoning District.
21

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

23
24
25 Commission question to Staff:

- 26
- 27 • One of the factors looked at in granting a Variance is whether the Variance is
28 necessary to bring the party into substantial parity with other parties holding
29 property interests in the zone. How many other residential units in the CR zone
30 have a density less than 1,500 square feet? *Staff responded they did not know,*
31 *however there some strictly multi-family buildings on small parcels that do not*
32 *comply with the 1,500 square foot density standard.*

33 Presentation was made by Dana Ansari, the applicant. Dana Ansari indicated that he
34 was withdrawing his consideration to enter one of the units into the Marin County
35 Authority's Section 8 rental pool.
36

37 Commission question to Mr. Ansari:

- 38
- 39 • Your parcel is the smallest in the area and does not have the flexibility to
40 increase. How does that differ from the other parcels in the zone that also are
41 not able to increase by buying adjacent property? *Mr. Ansari responded the*
42 *other lots are larger and meet the 1,500 square feet minimum per unit. His*
43 *2700 square foot lot can never capture that minimum per unit amount.*
44 *Negative differences are that it is located so close to the fire department with*
45 *the accompanying noise and the lack of parking. Positive differences are it*
46 *provides housing stock and its close proximity to public transportation makes it*
47 *a green and sustainable project because the tenant can shop locally without*
48 *driving.*

49 The public comment period was opened.
50

1 Don Olsen, 666 Bridgeway, indicated:

- 2 • The applicant's building and the firehouse are so close there is barely room to
3 walk between the two, which takes value away from the applicant's property.
4 This is the only instance where the City has approved a project that harms an
5 adjoining piece of property. The City owes the owners of this property
6 something in return for the hardship imposed by the proximity of the firehouse.
- 7 • Approving this project, with this very unusual situation, would cause no harm.
- 8 • Another dwelling unit is far more valuable than more office space. The goal in
9 the Commercial Residential District is to have dwelling units on the second
10 floor so there is more activity at night.
- 11 • An office use could generate up to another ten cars, less than for a dwelling.
- 12 • Putting a limit on what the applicant could charge for rent by designating the
13 second unit as low-income would put an unfair burden on the City to police the
14 rental amount.
- 15

16 The public comment period was closed.

17
18 Commission comments:

- 19 • Density Variance Findings A, B, C, D, and E cannot be supported. All of them
20 disregard the standards established by the California Supreme Court's
21 Topanga decision. There is no evidence that the existing zoning prevents the
22 owner from utilizing the property to the same extent as others in the same
23 zoning district.
- 24 • This property has five grandfathered parking spaces plus one on-site space,
25 which is as many as any parcel on Caledonia Street. The commercial property
26 next door and in the same zoning district has underground parking, so to allow
27 a Variance here would be to grant this property owner a privilege over the next
28 door property that was required to develop underground parking.
- 29 • This is a legal nonconforming lot and the additional residential unit is an
30 expansion of a nonconforming use. The law is firm in its reluctance to increase
31 a nonconformity.
- 32 • The notion of a floor area exchange under the stairs in order to allow the deck
33 enclosure is creative, but useless. Enclosing the deck will make an
34 unremarkable structure even more unremarkable and is unnecessary, because
35 all it does is make one bedroom larger.
- 36 • The City does not owe this property owner anything. There has always been a
37 firehouse next door. The current firehouse was moved a lot closer to the
38 subject property, but it was legally allowed to do so.
- 39 • The applicant could have taken away part of the ground floor space and
40 requested a Variance for tandem parking and gotten at least two cars in there,
41 although it would reduce the amount of square footage available to rent for
42 commercial use.
- 43 • If evidence were provided that other residences in the CR District were less
44 than 1,500 feet, and if it could be found that granting the Variance would bring
45 this property into substantial parity with other property owners, it could help in
46 making the findings for density.
- 47
- 48
- 49
- 50

- The hardship findings can be made for both the parking and density based on the restricted size of the property and the fact that the firehouse is so close that it would potentially diminish the value of the property.
- The parking findings could be made on the basis that a similar Variance was granted to Café Divino, so making the finding would bring the subject property into parity with another property in the CR district.

Commissioner Cox moved and Commissioner Werner seconded a motion to reopen public comment.

Comments from Mr. Ansari:

- There has always been a business on the ground floor and parking has always been approved with it. The only reason he is before the Commission is the commercial space has been vacant more than nine months and he has to reapply. All the uses they are applying for were approved before; he is not asking for anything different or more.
- The deck is not important and it can be left open.

Commission comments:

- For the Density Variance, the Commission cannot make the finding of exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use of the property. The case law specifically says such things as creating low-income housing or other public benefits cannot be relied on in order to make that finding. The finding has to be based on other factors such as bringing the property and ownership rights into parity with other property and ownership rights in the same district.
- It may be worth continuing this hearing to a date uncertain in order to get the additional data from Staff regarding how many other residential units in the CR Zone are less than 1,500 square feet.

Staff comments:

- If the Planning Commission is able to make the CUP findings to allow the restaurant, then that can move forward and the applicant can proceed with those improvements. If the Variance finding for a restaurant cannot be supported, then the applicant would be limited to a 16-seat restaurant based on the existing parking allocated to the site. That would allow two parking spaces for the existing one unit upstairs, for which a Building Permit application has already been submitted, and then four parking spaces would be allocated to the restaurant. One additional parking space would be needed for a 20-seat restaurant.
- Either the applicant needs to revise the application for a 16-seat restaurant, or the Planning Commission needs to make the findings to support a Variance for one parking space for a 20-seat restaurant.
- Café Divino has received a similar Variance, and a Variance for five parking spaces was approved for Cork restaurant at this same project site.

1 Commission comments:

- 2
- 3 • There might be exceptional circumstances in respect to the parking Variance
4 that are not present for the density Variance having to do with the firehouse
5 taking up parking spaces in front. There is a shortage of available parking
6 taken up by bus stops and the gas station across the street, as they all have
7 curb cuts, and the firehouse and that triangular piece of Caledonia Street are
8 going to be used primarily for parking for the police station and fire station.
9 However, that might also suggest that a Variance should not be granted
10 because parking is more restricted, not less.

11 Commission questions to Mr. Ansari:

- 12
- 13 • The Commission is prepared tonight to make the findings required for a
14 Conditional Use Permit without the parking Variance, but it could only be for a
15 16-seat restaurant. If this matter is continued, it is possible on further reflection
16 the findings could be made for a parking Variance, although that is not
17 guaranteed. Would you like to continue the entire project to a date uncertain, or
18 do you wish the Commission to vote on a CUP for a 16-seat restaurant. *Mr.*
19 *Ansari responded he would like the Commission to vote on a Conditional Use*
20 *Permit for a 16-seat restaurant, but would like it to be open for further*
21 *discussion to see if it can be changed later to 20 seats. He would like the rest*
22 *of the project to be continued to a date uncertain in order to get additional data*
23 *from staff.*
 - 24 • Do you understand that if you come back again asking for a parking Variance
25 you would then be seeking a modification to an existing Conditional Use Permit
26 to change it from a 16-seat restaurant to a 20-seat restaurant? *Mr. Ansari*
27 *responded he now wishes to continue the entire project to a date uncertain.*

28
29 **Commissioner Cox moved and Commissioner Werner seconded a motion to**
30 **continue the public hearing for 317-319 Johnson Street to a date uncertain. The**
31 **motion passed 3-0.**

- 32
- 33 **3. DR/EA 09-133, Design Review Permit, Encroachment Agreement, Webb, 71**
34 **Glen Drive.** Design Review Permit to allow the construction of a detached two-
35 car garage, roof deck trellis, and installation of retaining walls within the east and
36 west side yard setbacks for an existing single-family dwelling located at 71 Glen
37 Drive (APN 065-112-23).

38
39 The public hearing was opened. Associate Planner Burns presented the Staff Report.

40
41 **Commissioner Keegin disclosed that he had spoken with Project Architect Barry**
42 **Peterson via telephone on June 22, 2010.**

43
44 **Commissioner Werner disclosed that he had spoken with Mr. Peterson on June**
45 **22, 2010.**

46
47 **Commissioner Cox disclosed that she had spoken with Mr. Peterson on June 18,**
48 **2010, with Mr. Webb on June 17, 2010, and with Mrs. Webb on June 18, 2010.**

1 Commission questions to Staff:

- 2
- 3 • Was there a topographical survey provided with the new plans? *Staff*
 - 4 *responded not with the superseded plans that Mr. Peterson prepared, but a*
 - 5 *topographical survey was provided when Mr. Webb submitted the original*
 - 6 *application.*
 - 7 • Was there a surveyor's certification of the story poles? *Staff responded yes,*
 - 8 *the certification is in staff's files.*

9 Presentation was made by Barry Peterson, the architect and applicant.

10

11 Commission questions and comments to Mr. Peterson:

- 12
- 13 • The stairway from the upper deck to the garage is open with storage area
 - 14 below that. What will happen when the rain comes down the stairway? *Mr.*
 - 15 *Peterson responded some rain would come down in the stairwell, but it is sort*
 - 16 *of enclosed, not open sided. The bottom will have to be drained.*
 - 17 • Is the rendering we are being asked to approve the one with the roof overhang
 - 18 that encroaches in to the driveway easement benefitting the adjacent
 - 19 neighbor? *Mr. Peterson responded it is. When they first did the design work*
 - 20 *they were of the understanding that the easement along there was a utility*
 - 21 *easement and later learned it is actually a driveway easement, which they can*
 - 22 *only encroach on with permission of the neighbor. If they do not get that*
 - 23 *permission they will remove the overhang.*
 - 24 • Could the residence be expanded in any direction other than towards the
 - 25 garage? *Mr. Peterson responded there is a small area they could expand the*
 - 26 *residence into, but there is a neighboring house near there, so they would*
 - 27 *rather not do that. In other places they are on or in setbacks, leaving only the*
 - 28 *courtyard area to intrude on. They would rather not do that, because it is a nice*
 - 29 *courtyard, but it is their only option if they need to go beyond the building*
 - 30 *environment as it is.*

31

32 The public comment period was opened.

33

34 Ricardo Toyloy, 63 Glen Drive, submitted a letter to the Commission and indicated the

35 following:

- 36
- 37 • He is glad to see a lot of his concerns have been documented in this meeting's
 - 38 Staff Report.
 - 39 • He still believes the overall project is quite large, specifically the height. The
 - 40 structure is taller than the rear end of his fence. The story poles are erected on
 - 41 landfill on the east side, giving an inaccurate picture of what the height
 - 42 elevation is recorded at.
 - 43 • The true grade level on his side is very clear in the photograph he has provided
 - 44 to the Commission, which gives a sense of scale. On the applicant's side the
 - 45 landfill was filled in up to six feet.
 - 46 • Only the back portion of the fence is six feet. The second photograph shows
 - 47 the patio portion as proposed and shows the total length of the fence. From
 - 48 where he stands in the photograph the fence is probably more than ten feet.
 - 49 The proposed height of the garage is two feet below that, still over eight feet
 - 50 high.

- There is an excess of four feet of landfill up against the fence in certain areas. It is no longer a fence; it is now a retaining wall. He is not necessarily against that, if the fence is to be used as a retaining wall it should be recessed and he wants assurance that it follows the City's regulations for retaining walls.
- Another suggestion would be to grade back the landfill to its original grade level.
- He has concerns about the Phase Two plans. It would be helpful if he could see them, as it would give him a better understanding and he would be able to comment and have better input on the project.

Bill Walters, 62 Glen Drive, indicated the following:

- He is an architect the former owner of the subject site. He had intended to tear down the existing house and build another one.
- The driveway at the project site is treacherous. Many people do not want to drive up it. It is difficult to walk down, which is one of the reasons he sold the property, because with bad knees it was too difficult for him to walk down. The driveway fills with gravel and cars tend to slide on the gravel down the steepness of the driveway.
- When he had originally intended to build on the site he designed a house with an interred garage rather than having the garage at street level. He intended to lower the house a bit and grade a less steep driveway going up to the house. He urged the applicant to do the same in order to provide privacy for the residents of 63 Glen Drive.

Susan Cullen indicated the following:

- She is a 22-year resident of Sausalito and the real estate agent who sold the property to the Webbs.
- Her concern for the Webbs is one of liability. The driveway is very dangerous. She has gone up and the down the driveway many times. She will not take her car up the driveway and does not like to walk up it unless she is wearing tennis shoes.
- The house is a fixer-upper on a beautiful lot. Mr. Webb does great work and allowing him to develop this property would benefit the City.
- She is not concerned about the height and square footage of the project because it will be limited by the City's guidelines.

Michael Lerner indicated the following:

- He is impressed by the dirt work Mr. Webb has done for him on hillside property where drainage is a critical issue.
- In reviewing what the applicant wants to do, and having been to the subject site, it is an extremely dangerous place in his opinion. Doing the dirt work the applicant proposes could only be beneficial to the neighborhood by raising the property values and stabilizing an unstable lot that could impact neighbors.

Larry Beaton, 20 Rose Court, indicated the following:

- He and his wife live behind and uphill from the subject property.
- They remain concerned about the potential incremental development.

- 1 • Their primary view of Mt. Tam is just over the applicant's house with their
- 2 second floor at the roof level. Any increase in the building's height would
- 3 impact their views.
- 4 • They worry that building the garage first could force future development of the
- 5 site back and up, and so would like to see the Phase Two plans.
- 6 • They understand restrictions on future development will help protect their
- 7 views, but they believe the incremental nature of the development will remove
- 8 some design options that would normally be available to remedy a height
- 9 issue.
- 10 • If this project is approved they request the following:
- 11
 - 12 ○ A topographic survey by a licensed surveyor is done with the elevations
 - 13 and important features documented. If the natural grade has been
 - 14 impacted by the present development, the survey should indicate that.
 - 15 ○ This project should not be used as an argument for pushing a future
 - 16 design back and up. If the choice becomes one of impacting their views or
 - 17 tearing down part of the garage and rebuilding, then the garage should
 - 18 come down.
 - 19 ○ Specific limitations on the future development.
- 20 • They generally support the project and the garage, but if the applicant wants to
- 21 move forward with the garage now they request consideration be given to
- 22 limiting the future height.
- 23 • They would like to see the current zoning setbacks enforced if the applicant
- 24 tears the existing house down and builds a new one, because right now they
- 25 are on the back property line or close to it.
- 26

27 Marilyn Oliver, 50 Glen Court, indicated the following:

- 28 • She has lived uphill from the proposed project since 1982.
- 29 • She does not have a problem with the garage being built.
- 30 • She is concerned regarding her easement. She has been fenced off from that
- 31 easement and a deck about two feet high has been constructed on that
- 32 easement beyond the fence that blocks her. Additionally, her water is on Glen
- 33 Drive and she is blocked from her water meter. This is all due to creeping
- 34 construction.
- 35 • She asks that the provisions in the Staff Report regarding her easement be
- 36 kept.
- 37 • She is also concerned about limiting future height. Her house is small and is
- 38 the sister house of the applicant's house, which she can see from her deck.
- 39 She is concerned height would endanger her view.
- 40

41 Linda Milark, 7 Reade Lane, indicated the following:

- 42 • She is a friend of the Webbs and is frequently at the subject property.
- 43 • She supports the project because of the many times her brakes have slipped
- 44 as she backed down the driveway, and being unable to stop.
- 45

46 Dennis Webb, 71 Glen Drive, indicated the following:

- 47 • He is trying to get an underground garage passed, which will contribute to
- 48 safety and view preservation. This is a dangerous situation and they need a
- 49 garage to remedy it.
- 50

1
2 The public comment period was closed.

3
4 Commission comments:

- 5
- 6 • An 800 square foot garage is inconsistent with the residential garages in the
7 neighborhood, which are around 450 square feet in general. Mr. Webb is a
8 contractor and the reason his proposed garage is oversized is in order to
9 handle the size of his trucks. How can the Commission justify an oversized
10 garage in a residential neighborhood on the basis that it serves a commercial
11 need?
 - 12 • Regarding the notion that the driveway is treacherous and dangerous,
13 Sausalito is a place in which steep driveways are the rule. They could install a
14 stairway that would make it easier for people to walk up and down.
 - 15 • There is a sketch that shows a gate in the archway and a fence that runs up to
16 the right-hand side, all of which confirms that what the Commission is seeing is
17 not consistent with the neighborhood. Building a wall at the street level turns
18 this into a compound, which is not seen on that street. From a design and
19 architectural point of view, a garage is one thing; but a wall that stretches
20 across the property is a different design element from what is seen in the
21 neighborhood.
 - 22 • What is being approved here? The applicant wants the Commission to look at
23 this as just a garage, but this is a lot more, especially in the context of a house
24 the prior owner referred to as a teardown.

25
26 Commission question to staff:

- 27
- 28 • Is the house within the 15-foot rear yard setback? Has staff looked at and
29 measured that? *Staff responded the existing single-family dwelling is*
30 *considered Legal Nonconforming because it encroaches into the 15-foot rear*
31 *yard setback. Staff is not proposing any modifications to the existing dwelling*
32 *except for the reconstruction of the existing entry stairs.*
 - 33 • If the existing house were torn down, would the applicant be required to adhere
34 to the 15-foot rear yard setback? *Staff responded not necessarily. The Zoning*
35 *Ordinance provides a provision for a Nonconformity Permit, so if the applicant*
36 *redesigns the building to try to encroach within the same existing*
37 *encroachments and the Planning Commission approves the findings, then a*
38 *new residence could be located in the same location as the present residence.*
 - 39 • But you could not tear the house down completely and get a Nonconforming
40 Permit? *Staff responded that is correct, it would only be fifty-percent of a*
41 *voluntary teardown.*

42
43 Commission comments:

- 44
- 45 • It is disturbing that the neighbor has seen drawings and plans that are not
46 before the Commission because they are not part of the application, although
47 they exist. It appears the Commission is being asked to approve this project,
48 but is not seeing the whole thing.
 - 49 • The Design Review Permit findings are troubling. Finding B requires the
50 Commission to find that the proposed Architecture and Site design maintains
the prevailing design character of the neighborhood, and Finding C requires

1 the Commission to find the proposed project is consistent with the general
2 scale of buildings in the surrounding neighborhood. Testimony tonight from the
3 owner of the companion house says the size and scale of her house is smaller,
4 as are the other homes in the neighborhood, so it would be difficult to make
5 Findings B and C.

- 6 • The outdoor eight foot wide stairway, for which there is a sketch showing some
7 sort of enclosure, is troubling. With this stairway on the outside, what is the
8 reason for the internal stairway?
- 9 • Most troubling is the inaccurate drawings. The Commission is not willing to
10 approve inaccurate drawings.
- 11 • Also troubling are the neighbors' comments regarding the inaccuracy of the
12 height of the story poles in conjunction with the dimensions shown on the
13 plans.
- 14 • There are some good elements in this garage, such as the applicant locating
15 and designing the project to minimize obstruction of public views and that much
16 of it is subterranean. Bringing the garage down to the street level and being
17 largely behind the fence is a plus from and design and construction viewpoint
18 and could probably be supported if there were not such a large front all the way
19 across. However, there are still the reservations regarding Findings B and C.
20

21
22 **Comments from Mr. Webb:**

- 23 • Given the safety issues he is saddened to hear the Commission does not
24 support the project. There is urgency to the matter that he feels is being
25 disregarded.
- 26 • He would like the project to be continued rather than a vote taken, which would
27 be a denial.
- 28 • He agrees with the Commission that the eight-foot outside stairway does not
29 work. Instead he would like to have a doorway immediately to the left of the
30 front entrance gate.
- 31 • The Commission's comments have been vague. He would like to get more
32 specific guidance.
33

34 **Commissioner Cox moved and Commissioner Keegin seconded a motion to**
35 **continue the public hearing for 71 Glen Drive to a date uncertain. The motion**
36 **passed 3-0.**
37

38 **New Business**

39 None.
40

41 **Staff Communications**

- 42 • Regarding the appeal of the project at 23 Atwood Avenue, the applicant and the
43 appellant have been in discussions on the modifications suggested by the
44 appellant. Significant progress has been made and both parties are optimistic a
45 compromise can be worked out. If the applicant agrees to make the proposed
46 project revisions staff anticipates they will be minor and such that they might be
47 approvable at the Zoning Administrator or staff level.
- 48 • The City Council has not yet appointed a replacement for Chair Keller, who will
49 be absent from the Commission meetings through the month of July.
50

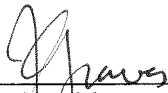
- 1 • With the possibility of only Vice Chair Bair and Commissioner Cox being
2 available for the July 7th Planning Commission meeting the Community
3 Development Director will contact the Commissioners individually to ascertain
4 interest in a special meeting on July 14th.
5

6 Commission comments:

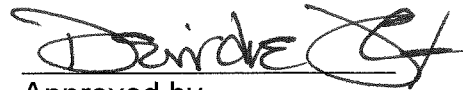
- 7 • The verbatim transcriptions of the Planning Commission and City Council
8 meetings as they were done in years past are more useful than the new
9 summarized versions. The new synopses identify the public, but not what
10 individual Commissioners said what. The fully transcribed minutes give a better
11 idea of the thoughts and the process. *Staff responded budgetary issues*
12 *necessitated the change to the summary minutes as full transcription of the*
13 *minutes drove the cost up significantly. Full recordings of the meetings are*
14 *available online a few days after each Commission meeting.*
15

16 **Adjournment**

17 The meeting was adjourned at 8:47 p.m.
18

19 

20 _____
21 Submitted by
22 Jeremy Graves, AICP
23 Community Development Director. .
24

25 

26 _____
27 Approved by
28 Joan Cox
29 Acting Chair
30

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