SAUSALITO PLANNING COMMISSION Wednesday, November 5, 2008 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, Commissioner Joan Cox (after Item 1), Commissioner

Stafford Keegin, Commissioner Eric Stout

Absent: Vice Chair Stan Bair, Commissioner Joan Cox (during Item 1)

Staff: Community Development Director Jeremy Graves, Assistant Planner Lilly

Schinsing, Contract Planner Lisa Newman, Contract Planner Brian Stanke, Contract Planner Lorraine Weiss, City Attorney Mary Wagner

Chair Keller indicated the applicant for Item #3, 1/3 Harbor Drive, had requested the public hearing be continued to a date uncertain.

Chair Keller moved and Commissioner Stout seconded a motion to continue the public hearing for 1/3 Harbor Drive to a date uncertain. The motion passed 3-0.

Chair Keller indicated the applicant for Item #4, 660 Bridgeway Boulevard, had requested the public hearing be continued to the meeting of November 19, 2008, which would fall under the Planning Commission's joint meeting with the Historic Landmarks Board.

Chair Keller moved and Commissioner Stout seconded a motion to continue the public hearing for 660 Bridgeway Boulevard to the meeting of November 19, 2008. The motion passed 3-0.

Chair Keller moved and Commissioner Keegin seconded a motion to hear New Business Item #7, Wireless Telecommunications Facilities Compliance Study, before Item #6. The motion passed 3-0.

Approval of Agenda

Chair Keller moved and Commissioner Keegin seconded a motion to approve the agenda as amended. The motion passed 3-0.

Approval of Minutes

43 None.

Public Comments

46 None.

Public Hearings

1. DR/VA/TR 06-039, Design Review Permit, Variance, Tree Permit, Leana Investments, Ltd., 4 Bulkley Avenue. Request for Planning Commission approval of Design Review Permit, Variance, and Tree Permit for construction of a new detached single-family residence at 4 Bulkley Avenue, and remodeling the garage into a carport. The new three-story residence would have 4,657 square feet of floor area and a height of approximately 25 feet, 9 inches. Approval of a Variance for parking is needed since the dimensions of parking space in the proposed carport would not comply with the standards established in the Zoning Ordinance for parking spaces. Due to the size of the project it is subject to Heightened Design Review findings. The demolition of an existing single-family residence on the property is also proposed. This public hearing is continued from the Planning Commission meeting on October 15, 2008.

The continued public hearing was re-opened. Contract Planner Newman presented the Staff Report.

Presentation was made by Chris Raker, the applicant.

The public comment period was opened.

Ed Duckers, 555 Montgomery Street, San Francisco, indicated the following:

- He is with the law firm of Stoel Rives and represents John R. McManus, who lives immediately below the project site and is opposed to the project.
- He will be presenting a letter to Commission.
- This project has recorded evidence of historic and recent slides stemming from construction on the hillside.
- The Mitigated Negative Declaration for this project does not fully evaluate the
 impacts this project will have on slope stability and defers much of the studies
 and mitigation measures related to geotechnical hazards until the Building
 Permit stage when there will be no public comment, which by law is not
 permitted and contrary to the objectives of CEQA.
- This project has undergone substantial revisions since the Mitigated Negative Declaration was circulated for review and public comment and has not been revised and recirculated. The effects of these revisions, the carport and glass elevator, have not been subject to environmental review despite evidence of significant impacts.
- The public has been taken out of the CEQA process, subverting the underlying policy of CEQA as an environmental full disclosure statute.
- The findings in support of the project relating to public safety and welfare and injury to property are insufficient and not supported by evidence.

James Keagy, 16 Bulkley Avenue, indicated the following:

- He supports the project, which has undergone attractive improvements since the last public meeting.
- He questions whether the steel grate is the best choice and whether a more transparent and elegant security door could be considered.

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Nicole Back indicated the following:

- She is the Trustee for the Dorothy Duncan Trust, which owns 31 Bulkley Avenue, behind the existing building on the subject property.
- Her view is of the garage on the existing building.
- She would like the architect to inform her of what the lighting scheme will be and if something can be done to avoid the lights from shining too brightly, as they do presently.

Mr. Raker's rebuttal to public comment:

- No member of the public, staff, or the Planning Commission has raised the CEQA issue, which they went through over two years ago. The Soils Engineer did a preliminary report. Then at the request of the Planning Commission and the City Engineer they did a design-level geotechnical report, a full soils report with borings, and a construction feasibility report. None of these reports have raised the issue that there is any slope instability.
- Nothing they have done in the last revisions has made a significant change in the capacity of the hillside or of excavation.
- They will reevaluate the steel grate security door and research a better design.
- By ordinance all the lights will be down-shielded. Lighting will be under the perimeter of the large roof and he will urge the owner to keep the lighting low.

The public comment period was closed.

Commission comment:

 The last minute timing of Mr. Ducker's letter to the Commission is unfortunate in that the Commission is not in a position to evaluate and respond to the legal position taken.

Community Development Director Graves indicated that Commissioner Cox had arrived at the meeting.

Commission questions to Rajendra Sahai, Structural Engineer:

- Structurally what, if anything, is going to be changed with regard to the parking area? Has the footprint changed as a result of the Commission's request to have a two-car carport together with the glass elevator and the revision of the stairway? Mr. Sahai responded there would be some additional foundation at the base of the structure for the stair and elevator, but nothing otherwise.
- Is that a substantial change? Mr. Sahai responded it is a minor change in his opinion.
- There will no change to outer boundaries, the perimeter of the building itself?
 Mr. Sahai responded that is correct. The sandstone foundation is on piers and is solid and strong. The structure of the elevator, which is 5 feet by 5 feet, can be used to support the stair that wraps around it.
- Is any weight being added to the building? *Mr. Sahai responded a small amount from the added elevator and stair.*
- Would you say the revisions are mostly internal and aesthetic revisions for the most part? Mr. Sahai responded no. It has not been determined yet if they will

need to strengthen the structure, but they will do so if needed, particularly to the back wall, but it would be internal and have no visual impact.

Commission question to staff:

• Has staff reviewed the revisions to the plans, particularly as they pertain to the Mitigated Negative Declaration, and did staff consider this to be a material or a substantial change? Staff responded they did review the plans with respect to the environmental documentation. The expansion to the east of the garage structure is a minor expansion, as characterized by the structural engineer, and still falls within the zoning maximum standards and is acceptable from that standpoint. It is not a substantial change that would have any relationship to the environmental review.

Staff comments:

- Regarding the recirculation issue brought up my Mr. Duckers, the CEQA guidelines state a Negative Declaration has to be recirculated after a substantial revision if that revision results in a new avoidable significant impact, but allows for project changes that do not result in significant impacts or new unidentified impacts.
- The changes to the project from the time the Planning Commission first considered the project plans that were the basis for the initial Mitigated Negative Declaration have all been improvements in the aesthetic and safety of the project, so they have been beneficial changes.
- The Planning Commission's request that the applicant prepare a design-level geotechnical evaluation, which was then peer reviewed, achieved the mitigation measure that Mr. Duckers pointed to, which takes the project to a more certain point of analysis than is normally the case with single-family residential development in Sausalito.
- Regarding deferral of mitigation, particularly on the geotechnical issue, it is true they can not simply wait and see on mitigation measures, but criteria can be built into the measure that are measurable and identifiable, which staff has done in this measure by incorporating the recommendations of reports to be reviewed by the City Engineer. When you build in those types of criteria you can say that that report will be developed or those criteria will be incorporated at a different point than upon immediate adoption. It is not really deferral in that instance.

Commission comments:

- The architect has addressed all the issues and concerns the Planning Commission had at the last meeting and has come up with a parking solution that benefits everyone, looks better, now allows both cars to be off the street and out of the public right-of-way, and opens up a view corridor for the public walking on Bulkley Avenue which is substantially better than it is currently.
- Regarding the structural aspect, the owner demonstrated on his other residence that he is willing to take extra measures to shore up the stability of the hillside.
- There are no changes environmentally that would affect the need for a new Mitigated Negative Declaration.

- The design contemplates the creation of an easement on each side of the garage, which allows it to be built under the Building Code. The Commission would like it conditioned that the easement be reviewed and approved by the City Attorney and that the City be made an intended third-party beneficiary with respect to both easements so the adjoining property owners cannot terminate the easement later.
- The Commission would like to see the property line delineated with some kind
 of paver to give visual definition so that the public knows that is the public rightof-way as a continuation of the walkway that goes up in front of 6 Bulkley.
- The Commission would like it conditioned to adopt the noise reduction schedule that staff prepared in its report but did not include in the conditions.

Staff comment:

 With respect to the City's ordinances regarding changing construction hours, the City needs to know why this project is different from others projects in the city to justify and make that clarification.

Commission comment:

 The Mitigated Negative Declaration indicated a significant environmental issue with respect to the construction of this project is the noise that it would generate. A simple way to mitigate the noise impact from this project would be to let work proceed only during normal commercial hours, not during evenings and weekends.

Commission questions to staff:

- Would staff also like to see a Condition of Approval with regard to the garage gate, or leave that decision to be made at the staff level? Staff responded they would be comfortable with having the Community Development Director review and approve a garage design.
- Should lighting be addressed as Condition of Approval with regard to the parking pad? Staff responded one option would be a Condition of Approval to have the lighting in the garage set on a motion sensor so that the garage lighting is not inadvertently left on all night, as well as the mitigation that it would be downshielded.
- Would staff like the property line delineation with pavers Condition of Approval to be decided at staff level? Staff responded that would be satisfactory to them.

Commission question:

 Does language need to be crafted for the City Council regarding the Encroachment Agreement as it pertains specifically to the area of the parking structure that is below grade so they are aware of the fact that it does not pertain to the parking and they are not voting on an Encroachment Agreement that involves parking in the public right-of-way? Staff responded they would clarify in the Staff Report that goes to the City Council exactly where the encroachment lies.

Conditions of Approval:

- Property line boundary shall be delineated with pavers to indicate public rightof-way and shall be submitted for review and approval of the Community Development Director prior to issuance of a Building Permit.
- The Condition of Approval requiring 5-foot wide no-build easements on either side of the property shall be augmented with new language stating that prior to dedication the City Attorney shall review the easements. The condition shall be written so that the City will be a party of interest to the easements.
- Garage door design details shall be submitted for review and approval of the Community Development Director prior to issuance of a Building Permit.
- Condition 4 shall have language from the Staff Report substituted in order to mitigate the project's noise impacts by barring construction on evenings and weekends.
- Condition 12 that reflects Mitigation Measure AST-1 shall be augmented with additional language stating that all exterior lighting shall be on motion sensors with downshielding configuration.
- There shall be no gate between the two properties at the street level in the public right-of-way.
- Garage gate design shall be reviewed and approved by the Community Development Director prior to issuance of a Building Permit.

Chair Keller moved and Commissioner Stout seconded a motion to approve Mitigated Negative Declaration, Mitigation Monitoring Program, Variance, Design Review Permit, Tree Removal Permit, and recommendation of City Council Approval of an Encroachment Agreement for 4 Bulkley Avenue with the additional and amended Conditions of Approval. The motion passed 4-0.

2. DR/VA/EP 03-048, Design Review Permit, Variance, Encroachment Permit, Cecchi, 415 Pine Street. Request for Planning Commission approval of a one-year time extension of a previously approved Design Review Permit, Variance, and Encroachment Permit to demolish the existing house and construct a new single-family home with two onsite parking spaces. The project was approved by the Planning Commission on January 28, 2004 and an appeal was denied by the City Council on March 23, 2004. The permit expires on March 23, 2009.

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

Presentation was made by Chris Raker, the applicant.

Commission questions to Mr. Raker:

- You expect to have a completion by October 2010? Mr. Raker responded the owners actually expect to move in January 2010. They added the extra months to provide some additional room.
- Could we have the permit time frame be for January 2010? *Mr. Raker* responded yes, that should be plenty of time for the contractor to build the house. The unknown is how long it takes to get the permit and when they can actually start construction. If they start April 15th, that would be reasonable.

Commission question to staff:

 Is there an additional fee to get a time extension? Staff responded yes, the applicant has paid an additional fee to come before the Planning Commission for this time extension.

Commission comment:

• In the language it should say if a one-year extension is granted it is a "one-time one-year extension." If the applicant does not adhere to that time frame they would have to reapply.

Commission question to staff:

• Is there a limitation on the time the applicant has from when they start construction to completion? Staff responded no, the city generally does not have the ability to impose that kind of condition on a project, although adoption of a construction time limit ordinance is anticipated in the first part of 2009. It is more defensible for the City to have that ordinance in place than to try to craft conditions for a specific project.

Commission comments:

 Using the one-time only language would force the applicant to come back if they needed a further permit, and by then the construction time limit ordinance would be in place.

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

Chair Keller moved and Commissioner Stout seconded a motion to approve a one-time one-year time extension of a previously approved Variance, Encroachment Permit, and Design Review Permit for 415 Pine Street. The motion passed 4-0.

5. DR/EA 08-016, Design Review Permit, Encroachment Agreement, McConnell, 125 Prospect Avenue. Request for Planning Commission approval of a Design Review Permit and recommendation of City Council approval of an Encroachment Agreement in order to construct new front yard fencing, a driveway gate, and walkway gates located in the public right-of-way for Prospect Avenue, and various landscaping improvements on the property.

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

Presentation was made by Steve McConnell, the applicant.

Commission questions to Mr. McConnell:

 Why can you not put the fence along your property line? Mr. McConnell responded it is feasible to do it, but they are trying to do something consistent with how the property has been laid out for the last 50 years

- Why do you want a fence as opposed to a hedge? Mr. McConnell responded to keep the children in, and also a matter of aesthetics. They could do a hedge, but a fence is lower maintenance, is more predictable, and more consistent.
- Do you object to the type of fence proposed as a condition by staff? Mr. McConnell responded it is not his first choice because it is not consistent with the style of the house or with what they want to do, which is keep the children in, and questioned why they would be denied a wood fence when several of their neighbors have them?

Commission comments:

- Encroachment Agreements are primarily for applicants who need to get access
 to their property across the City right-of-way. It is problematic to grant an
 applicant City property that they want to enclose and treat it as their own.
- The Commission would not have a problem with the applicant putting a fence up if it were on his own property line, but would consider granting the applicant the line of site they want with regard to putting in a barrier if that barrier is a dense hedge, which adds more aesthetics to the streetscape.
- While it is true several of the applicant's neighbors have wood fences, they
 would not be granted approval for those fence if they came before the Planning
 Commission today.

Commission question to staff:

• If the applicant builds a fence on the property line, who is responsible for the maintenance of the shrubbery or trees he may plant that are in the public right-of-way? Staff responded it is City-owned property and it is the responsibility of the City's Public Works Department to maintain it. Areas along arterials will be maintained at a much higher level than along a minor road such as this. If a dangerous situation occurs with a privately installed tree on a public right-of-way the City can ask the property owner to remove the tree, or the City will remove tree.

Chair Keller moved and Commissioner Cox seconded a motion to continue the public hearing for 125 Prospect Avenue to the meeting of January 14, 2009. The motion passed 4-0.

New Business

6. Wireless Telecommunications Facilities Compliance Study. A study reviewing the compliance of wireless telecommunications facilities with the requirements of Sections 10.45.070 and 10.45.100.F of the Zoning Ordinance.

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

Commission questions to staff:

• Did each of the providers conduct their own report? Staff responded a letter was sent to each provider who then hired a consultant that specialized in reporting regarding the electric magnetic fields, so the actual provider did not do the analysis.

- On an ongoing basis, who will monitor compliance? Staff responded it is the responsibility of the wireless carrier to provide that information to staff. For any applications in process now compliance with the Zoning Ordinance will be made a condition of project approval. Should that carrier not comply, but they submit future applications, those applications would be held off until they submit compliance reports and meet all the Zoning Ordinance requirements.
- How often are the carriers required submit a report? The Zoning Ordinance indicates they are required to submit that information bi-annually.
- Is there an independent body that will review the reports to ensure the carriers are in compliance, or is staff sufficiently qualified to determine compliance status? Staff responded they could do that by using the Internet to verify the consultants that provided the information are licensed in that particular specialty and to look up references.
- What happens in the event that an existing provider is not in compliance? Staff responded the report that indicates an existing provider is not in compliance will also specifically indicate what is necessary for the provider to become compliant, or the consultant can provide detailed supplemental information via telephone.
- If an existing provider is not in compliance, how long do they have to bring themselves into compliance? What is available to the City to force them into compliance and/or fine them until such time as they become compliant? Staff responded no time duration has been set and will depend on what the violation is. If the provider continues to be noncompliant the City would recommend a permit revocation hearing before the Planning Commission and/or City Council. There are currently no specific fines in place. There are very strict standards established by other authorities regarding what the City can and cannot regulate in this field.
- Does the Zoning Ordinance give the Commission authority to revoke a permit? Staff responded it does not give the Commission authority different than any other Conditional Use Permit would give. If there is a violation of a CUP and it rises to the level of a recommendation to revoke it, it would be a similar proceeding and hearing regardless of the use.

Commissioner Cox indicated she would recuse herself because she lives within 500 feet of 442 Coloma Street, one of the applicant's sites.

Commission questions to staff:

- Regarding the table on page six of the Staff Report that states whether or not there compliance with the Zoning Ordinance, why does the last item not indicate the status for the 442 Coloma Street site? Staff responded the January 16, 2003 report submitted to staff for 442 Coloma Street did not offer that information. Staff contacted Sprint/Nextel to request their consultant provide a detailed reporting offering that information, but it has not been received yet. The table will be updated once the report is received.
- That information is also not provided for the applicant, Metro PCS, at 300 Spencer and so they are currently not in compliance. Staff responded the applicant's subject site for this hearing is at 1750 Bridgeway, a different site.

• Why should we hear or grant approval of an application for one site if the applicant is not in compliance on another property, if they have been given the opportunity to report and bring it into compliance before they apply and they had not done that? Staff responded Conditional Use Permits are specific to the property. Applications have to be looked at independently of violations on another properties, even though they are the same company.

Staff comment:

 The Metro PCS site at 99 Hect Road is a forthcoming application and should not be on the compliance table. Staff does have a report for the Metro PCS site at 300 Spencer Avenue showing it is in compliance. It was not updated in the table because the report was received after the table was finalized. Metro PCS is in fact in compliant on their other sites.

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

Chair Keller moved and Commissioner Keegin seconded a motion to accept the Wireless Telecommunications Facilities Compliance Study. The motion passed 3-0.

Public Hearings (continued)

7. DR/CUP 06-059, Design Review Permit, Greene, 1750 Bridgeway Boulevard. Request for Planning Commission approval of a Design Review Permit and Conditional Use Permit to construct a wireless communications facility with three antennas mounted on the building and four equipment cabinets located in an existing underground parking area.

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

Presentation was made by Maryann Miller Novak, the applicant.

Commission question to staff:

Who owns the existing antenna that is currently visible from above the roofline?
 Staff responded the antenna belongs to Sprint/Nextel.

Commission comment to staff:

• Sprint/Nextel should be notified to move their antenna below the roofline and out of the public view, the same as Metro PCS has requested. Staff responded they would review their permit to determine staff's ability to influence them to move it. They can request it and indicate the Planning Commission has expressed a desire to have them move the antenna.

Commission questions to Ms. Miller Novak:

 Have you provided photographs illustrating how this particular shield would look? Ms. Miller Novak responded there are photo-simulations in the Staff Report on page 63. The trapezoidal shape at the top of the building above the

- awning will be completely removed and replaced with a new fascia with the antennas tucked behind it.
- Would the new fascia be of the same color and material as it currently is? Ms. Miller Novak responded yes.
- You said the RF ranges are within the acceptable parameters. Does your report address only the RF, or do you address the power also, or are they the same thing? Ms. Miller Novak responded the engineer measures the ambient levels at the site, which he extrapolates with the projected power output of the antenna they are going to be using, and comes up with his calculation, which tells them whether or not they are going to meet the federal standards. According to the report they will be 1.19% of the prevailing standard, so they are well beneath the federal limits.
- So the federal standard is 100% based on this calculation, and you are at 1%?
 Ms. Miller Novak responded that is correct.

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

Commission comment:

 The applicant has done the best possible job under the situation to hide the antennas from public view.

Chair Keller moved and Commissioner Stout seconded a motion to approve a Design Review Permit and Conditional Use Permit for 1750 Bridgeway Boulevard. The motion passed 4-0.

New Business (continued)

8. Strategic Planning Goals. Review the City Council's Strategic Goals and Objectives.

The public hearing was opened.

Commission question to staff:

• Can you review what Imagine Sausalito might be? Staff responded the City Council has appointed a Business Advisory Committee that has approximately ten members, generally business community members and members appointed by the City Council and the Chamber of Commerce. That is the committee that is in charge of Imagine Sausalito. Under that committee there are four action committees, also appointed by the City Council. Those action committees are the Downtown and Harbor Action Committee, the Transportation Action Committee, the Telecommunications Action Committee, and the Waterfront and Marinship Steering Committee, or WHAM.

It was agreed by consensus to continue the public hearing on Strategic Planning Goals to the meeting of October 19, 2008.

Old Business

None.

New Business

None.

Staff Communications

None.

Adjournment

The meeting was adjourned at 9:02 p.m.

Jeremy Graves, AICP

Community Development Director

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Stan Bob

on behalf of

Approved by

Rill Kallar

Bill Keller Chair