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SAUSALITO PLANNING COMMISSION
Wednesday, November 17, 2010
Approved Minutes

Call to Order

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

Present: Chair Stan Bair, Vice Chair Stafford Keegin,
Commissioner Joan Cox (Arrived at 6:52 p.m.), Commissioner Richard Graef, Commissioner Bill Werner

Absent: None

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

Approval of Agenda

Chair Bair moved and Commissioner Werner seconded a motion to approve the agenda. The motion passed 4-0-1 (Commissioner Cox – Absent).

Approval of Minutes

November 3, 2010

Chair Bair moved and Vice Chair Keegin seconded a motion to approve the Minutes. The motion passed 4-0-1 (Commissioner Cox – Absent).

Public Comments

None.

Public Hearings

- 1. DR/EA 10-219, Design Review Permit, Encroachment Agreement, Tomassini, 22 Atwood Avenue.** Design Review Permit and an Encroachment Agreement to allow reconstruction of parking deck and stairs located in the Atwood Avenue public right-of-way fronting 22 Atwood Avenue, and the reconstruction of a retaining wall located in the North Street public right-of-way fronting the rear of property boundary of 22 Atwood Avenue (APN 065-203-02).

Staff indicated the applicant had requested the public hearing be continued to the meeting of December 1, 2011 to allow for re-noticing of the public hearing due to project modifications.

Commissioner Werner moved and Chair Bair seconded a motion to continue the public hearing for 22 Atwood Avenue to the meeting of December 1, 2011. The motion passed 4-0-1 (Commissioner Cox – Absent).

1 **2. SP 10-337, Sign Permit, Restaurant Investor's Fund V, 1250 Bridgeway.**

2 Sign Permit to allow business identification signage to be mounted on a building
3 wall and the co-location of signage on an existing monument sign located at
4 1250 Bridgeway (APNS 064-034-01 and 065-034-09).

5
6 The public hearing was opened. Associate Planner Burns presented the Staff Report.

7
8 Commission question to Mr. Upson, the applicant:

- 9 • What is your opinion of reducing the sign to 15 square feet? *Mr. Upson*
10 *responded he was fine with that and thinks it is a good suggestion.*

11
12 The public comment period was opened. Seeing none, the public comment period was
13 closed.

14
15 Commission comments:

- 16 • Staff's suggestion to reduce the size of the sign is correct. As proposed, the
17 sign is out of scale to the building.
18 • The finish materials and backlighting are very nice.
19 • Bar Bocci's name on the monument sign will dominate the sign and make it
20 appear that it is the main establishment. That may lead to Paradise Bay
21 requesting to enlarge their letters.
22

23
24 **Chair Bair moved and Commissioner Werner seconded a motion to approve a**
25 **sign permit for 1250 Bridgeway. The motion passed 4-0-1 (Commissioner Cox –**
26 **Absent).**

27
28 **3. DR/EA 09-095, Design Review Permit, Encroachment Agreement, 43 Platt**
29 **Avenue, Benioff.** Design Review Permit to allow construction of a freestanding
30 gate across the driveway and recommendation of City Council approval of an
31 Encroachment Agreement to locate the gate in the public right-of-way at 43
32 Platt Avenue (APN 064-231-01).
33

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

36
37 Commission question to staff:

- 38 • Is the gate only partly in the public right-of-way? *Staff responded the proposed*
39 *gate is entirely in the public right-of-way.*
40

41 **Commissioner Cox joined the meeting at 6:52 p.m.**

42 Presentation was made by Jill Benioff, the owner.

43
44 The public comment period was opened. Seeing none, the public comment period was
45 closed.
46

47
48 **Commissioner Cox noted she had spoken briefly with the applicant to arrange a**
49 **visit to the property.**
50

1
2 Commission comments:

- 3
- 4 • The Commission sympathizes with staff's observation that a large, flat gate
5 along with the dense planting will create an imposing, exclusionary front,
6 however, if there are no issues regarding the encroachments, which are
7 common, there is not enough argument against this project.
 - 8 • Having seen the setback for the proposed gate, it does not create a detriment
9 to the neighborhood.

10 Commission questions to Antonina Markoff, the architect.

- 11
- 12 • Is this property fenced? Would this gate be part of an enclosure? *Ms. Markoff*
13 *responded the gate is freestanding. There is a fence around the property,*
14 *because there is a swimming pool, but the fence is not connected to the*
15 *proposed gate. The gate is about the driveway and the garage, and the*
16 *garage's carport is outside the fence that surrounds the house and pool.*
 - 17 • Is it possible to step around the gate as it is planned? *Ms. Markoff responded*
18 *yes.*

19
20 Commission comments:

- 21
- 22 • There is nothing transparent about this gate. It is like a wall, and building it in
23 that location is inappropriate.
 - 24 • Visual privacy is not an argument for an Encroachment Permit.
 - 25 • The proposed gate would be better much further down the driveway.
 - 26 • Findings for an Encroachment Agreement cannot be made for this particular
27 design at this gate in this location.

28 Commission comments:

- 29
- 30 • An immense amount of privacy is provided by the existing hedge and by the
31 angles. Only the carport can be seen if one looks down the driveway.
 - 32 • The amount of bamboo at the site is overwhelming and dangerous to
33 pedestrians walking down the street who have no place to get out of the way of
34 oncoming cars. The bamboo acts as a solid fence right on the approved right-
35 of-way. The fence, where it is located, just adds to that visually.
 - 36 • Garage doors could be installed on the carport if the concern is that people
37 should not know if a car is there or not. Garage doors would also be consistent
38 with the neighborhood.
 - 39 • The applicant's safety concerns are legitimate, but safety is not addressed in
40 the findings for an encroachment agreement. It is about the encroachment and
41 how the Commission feels it fits into the finding relating to consistency with the
42 General Plan.

43
44 Ms. Benioff's comments to the Commission:

- 45
- 46 • Her safety as a single person is valid.
 - 47 • Other residences on her street are doing the exact same thing.
 - 48 • They have chosen materials that will go with the natural surroundings of the
49 street.
- 50

- She does not understand why her gate should go further down the driveway when there are more than two properties on her street that have gates further up.
- The gate is not a solid wall. She can supply the dimensions of the space between the slats between the wood panels of the gate. It is not a wall, but an entry.

Commission comments:

- Contrary to the applicant's claim that her proposed gate is similar to others in the neighborhood, her gate is not like any of the six photographic examples she has provided. Three of them are garage doors, which are solid and nothing can be done about that. Two of the examples are gates at the street, but they are transparent. The last example shows a gate way up the driveway.
- The encroachment needs to be denied because the findings cannot be made.

Chair Bair moved and Commissioner Cox seconded a motion to continue the public hearing for 43 Platt Avenue to a date uncertain. The motion passed 5-0.

- 4. AP 10-045, Appeal of an Administrative Decision, Marks, 301 Bridgeway.**
Appeal of an administrative decision regarding the approval of modifications to a previously approved Design Review Permit/Variance at 301 Bridgeway (APN 065-241-34).

Chair Bair noted that Commissioner Werner is the Appellant for this Item. Staff stated that Commissioner Werner as the Appellant, as well as a residential property owner within 500 feet of the subject property, leads to a conflict of interest. Therefore Commissioner Werner is required to recuse himself and leave the chambers. He may come back to the meeting during public comment and be given 15 minutes to address the Commission and then recuse himself during deliberations.

Commissioner Werner indicated he would recuse himself because he is the Appellant in this item and lives within 500 feet of the subject property. Commissioner Werner recused himself and left the room.

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

Commission questions and comments to staff:

- Does the 16 inches the deck was illegally extended impact any of the setbacks or have any impact on the Commission's consideration of appropriate setbacks for the building, or is it a mistake that it was not built to plan? *Staff responded since the lot fronts on two streets there are no setbacks on either Richardson Street or Bridgeway. However, there is a special 10-foot, 6-inch setback along Richardson Street, and one of the variances received in the 2006 approval was to construct the residence in that setback.*
- Does the Variance allow them to go all the way to the edge of that setback? *Staff responded the Variance approved everything in the special setback on*

1 *the plan. The Zoning Ordinance allows the Director to approve minor*
2 *modifications to a Variance.*

- 3 • In the approved Variance was the deck set back from the property line? *Staff*
4 *responded yes.*
- 5 • The Staff Report states that the front deck was not specifically addressed at
6 the Planning Commission hearing in April, which is not true. The Commission
7 debated the front deck and decorative cornices and considered whether the
8 project should be subject to Heightened Design Review because of the front
9 deck. The Commission asked how much square footage that mistake added to
10 the structure and was told four to five square feet. The Commission left some
11 discretion to the Community Development Director for final disposition, but the
12 Commission definitely debated the front deck. *Staff responded the front deck*
13 *was not discussed during the 2006 hearings, and that is why staff felt*
14 *comfortable in their decisions.*
- 15 • Were there conditions set when staff approved those modifications? *Staff*
16 *responded no, they were approved without conditions. Staff was not aware at*
17 *that point of the other modifications that had been made to the site that*
18 *increased the building coverage beyond what is allowed.*

19
20
21 Commission comments:

- 22 • The Commission did not know at the time that deck would have triggered going
23 over the coverage restriction, so the issue is could you make this administrative
24 decision if doing so would exceed the coverage limitation?
- 25 • The Commission did not know in April that approving the mistake regarding the
26 deck would result in increasing the building coverage beyond acceptable limits.
27 They did not think it detrimentally affected the appearance and thought it might
28 even improve the appearance to have it be flush and not set in from the edge
29 of the building.
- 30 • The Commission considered this an honest mistake and thought as it was
31 aboveground it was set up high enough as to not affect passersby or traffic.

32
33 Staff comment:

- 34 • Staff was also not aware that approval of the minor deck modifications would
35 exceed the building coverage.

36
37
38 **Commissioner Keegin indicated he had had conversations with Mr. Werner and**
39 **Mr. Albert relating to this matter.**

40
41 **Commissioner Cox indicated she had had conversations with Mr. Werner and Mr.**
42 **Albert relating to this matter.**

43
44 **Chair Bair indicated he had had a conversation with Mr. Albert.**

45
46 **Commissioner Graef indicated Mr. Albert had called him and invited him to do an**
47 **site visit.**

48
49 Commission questions and comments to staff:

- Had the Planning Division known at the time it took action on the modification to the front entry deck that the size would result in a the building coverage exceeding the allowable limit, would it have been handled at staff level or would it have been brought to the Planning Commission? *Staff responded if they had understood what is known today, the matter would have been referred to the Planning Commission.*
- If the Commission were to uphold the appeal on the basis that this administrative decision should have been brought to the Planning Commission, would the applicant still have the option in response to that decision to remove 17 square feet from the rear deck? *Staff responded if the appeal is upheld the applicant must bring the site into conformance with the 2006 approved plans with regard to the front deck. They would need to apply for a modification for the staircase and other features, but the upholding the appeal means they would need to reduce the front deck 16 inches.*
- Staff did not have the authority to approve the Variance for the 16-inch area given, because it exceeded building coverage limits. *Staff responded under the Zoning Ordinance the Community Development Director did have the authority to approve the Variance, but staff also has the authority to move the item up to the Planning Commission.*

Staff comment:

- The Community Development Director would have brought the application back to the Planning Commission if he had known the coverage exceeded the limit because staff would have informed the property owner that they needed a Variance for the building coverage issue, and that Variance would need to be reviewed by the Planning Commission because it was not part of the original Variance, which was for a setback issue, not a building coverage issue. Staff would have told the applicant to either apply for a Variance with the Planning Commission or remove something on the lot to bring him into conformance with the building coverage issue and then staff would consider the administrative modification.

Commission question to staff:

- If the Commission upholds the appeal, why is the option to remove 17 square feet from the rear deck no longer available to the applicant? *Staff responded upholding the appeal would mean the front deck would need to be reduced by 16 inches, because the appeal is based on the modification that staff approved on that front deck increase and what this appeal is about.*

Presentation was made by Bill Werner, the Appellant.

Presentation was made by Ron Albert, representing the Property Owner.

The public comment period was opened.

Fiore Arini (phonetic) indicated the following:

- Mr. Marks' home remodel came out beautifully and adds to the corner.

- Requiring Mr. Marks to knock the front of the house out will adversely and dramatically affect its appearance.

Lauren Gonzales, 206 Caledonia Street, indicated the following:

- She has lived in Sausalito her entire life and knows the subject residence well.
- Previously the house was unattractive. She is happy to see the improvements and to know that someone has taken good care of this little house on the corner because everyone sees it every time they drive out of Sausalito in that direction.
- Appealing this matter is actually a personal grievance. The homeowner made an honest mistake, and the Planning Commission and staff decided to approve those modifications. The property owners should be allowed to remove the floor area from the back deck to rectify the mistake without it being so financially obtrusive.

Jan Johnson, 301 Second Street, indicated the following:

- She has been Mr. Marks' rear neighbor for 17 years and walks by the subject house several times each day.
- Mr. Marks has been cordial to all the neighbors throughout the entire remodeling process and has invited her comments and suggestions.
- The Planning Commission should deny the appeal and give Mr. Marks the 16 inches. If the house must be brought into conformance, then the space should be taken from the back deck. Removing the space from the front deck would make the structure less appealing.

Vicki Nichols, 117 Caledonia Street, indicated the following:

- She has never seen the potential consequence of a mistake be this drastic in terms of cost to rectify.
- This house sits on a very prominent corner in a very prominent part of the downtown streetscape and has been improved by the remodel.
- Mr. Marks has paid many thousands of dollars through this process and that is enough. Give him the 16 inches.

Presentation was made by Mr. Marks, the Property Owner.

- He has offered to meet with everyone, including Mr. Werner. He was able to work out issues with neighbor who were initially against his project and win their support.
- A mistake was made. He was unaware of it, but that is where the old step was, where the footing was, and the contractor sited the new one where the old one was.
- They do have the ten-foot setback, but they took the third of the old house that was already in the setback and moved it back, so even this little bit here is still quite a bit less than was there before.
- Removing the space from the back deck, which is wood and can be worked with as opposed to the stucco in front, provides opportunity for an aesthetically pleasing appearance when completed, but rebuilding the front will alter the appearance detrimentally. Removing space from the back deck will change the house's appearance the least and be the most cost effective.

1
2 The public comment period was closed.

3
4 Commission comments:

- 5 • This project has developed enthusiastic support in the neighborhood, as
6 evidenced by letters and presentations.
- 7 • One of Sausalito's major problems is buildings being built out to the very limits.
8 Then when a mistake is made there is no room available to absorb the
9 mistake.
- 10 • There have been several projects before the Commission in the last few years
11 where, "the contractor made a mistake." If the contractor makes a mistake,
12 then the property owner should look to the contractor to resolve the problem.
- 13 • Staff was incorrect in approving the modifications, because doing so resulted in
14 a violation of the coverage requirements, but it is an excusable error because
15 that was not known at the time.
- 16 • The Appellant is entitled to prevail on his appeal, but a reasonable solution
17 needs to be reached. Cracking off the stucco in front and rebuilding it to move
18 it back 16 inches, which does not solve the entire problem at all, is not a
19 practical solution. The most practical solution is to remove 17 square feet from
20 the back deck.
- 21 • The balcony is not better the way it is; it would have been better the way it was
22 originally designed. It is too tight to the corner and actually sits out on the
23 sidewalk. Unfortunately this error occurred, but it is too much to ask the
24 homeowner to rebuild the front. Other remedies need to be sought.
- 25 • It is disturbing that the building mistake took place because of so many
26 miscommunications or information that was not researched. Commissioner
27 Werner's appeal was aimed at pointing this out.
- 28 • It is fair to seek other ways to get the project compliant with its coverage limit.
- 29 • The Commission cannot just let this go and give the Property Owner the 16
30 inches in front, because it would set too much of a precedent.
- 31 • The appeal has validity based on Finding 1, which states, "Changes are
32 consistent with all applicable provisions of this title." The changes are not
33 applicable with all provisions of the title based on the building coverage, so the
34 appeal should be upheld. However, it is frustrating in that if the appeal is
35 upheld the Planning Commission would not then have the opportunity to do the
36 right thing, which is to allow the applicant to make the change to the rear deck.
37 Staff has told the Commission that if the appeal is upheld then the applicant will
38 be forced to make the change to the entry deck.

39
40
41
42 Staff comments:

- 43 • The appeal is of the staff decision to allow that change to the entry deck.
- 44 • The building coverage is an issue that has to be addressed, no matter what,
45 and can be addressed in a variety of ways depending upon the Commission's
46 action this evening.
- 47 • Technically, if the Commission upholds the appeal, it is deciding that staff
48 made the wrong decision and those 16 inches should not be there and have to
49 be undone.

- 1 • The procedural conundrum the Commission is under is it does not want to
2 deny the appeal, because it is believed that the appeal has merit, but it does
3 not like the result, that the homeowner will be forced to make the corrections to
4 the front of the house.
5

6 Commission comments:

- 7 • On the basis of that procedural conundrum the appeal should be denied and
8 condition the project on the removal of the 17 square feet from the rear deck.
9 • A practical outcome is needed that will not involve coming back for a Variance.
10 That is part of this issue. A plan is needed that will get things to a resolution the
11 quickest.
12 • The Commission sees plans come back all the time for modifications and does
13 not take quite as stringent a view of those plans as Mr. Werner.
14

15 Commission questions to staff:

- 16 • If the appeal is denied, what leverage does the Commission have over the
17 Property Owner to make the changes to his back deck? *Staff responded code*
18 *enforcement. If the owners are over their building coverage, the City could*
19 *commence a code enforcement action. Also, the owners would not be able to*
20 *get a final building permit from the Building Division because they would be*
21 *over the coverage limit.*
22 • Is there any way the owners can say the City has waived its right with respect
23 to the coverage? *Staff responded the only way they would be allowed to*
24 *exceed the building coverage is through a Variance. Because their plans did*
25 *not show the extra 16 inches on the front deck, the owners did not vest the*
26 *right to build over the limitations.*
27 • If the Commission denied the appeal, should the Commission provide a
28 timeframe during which the applicant should complete the repairs? *Staff*
29 *responded a limit could be put on the time they have to bring in the*
30 *documentation showing the revised plans, which provides staff with a trigger. If*
31 *they do not do that, the remedy is code enforcement.*
32
33

34 Commission comment:

- 35 • It would be preferable if the property owners can either bring in the plans or
36 apply for the final building permit within a certain timeframe so the Commission
37 has them back in their jurisdiction rather than having to find them if they do not
38 become compliant with their building coverage.
39

40 Staff comment:

- 41 • The Property Owner has put up a \$10,000 deposit that is being held by the City
42 in case the encroachments were not granted that the Property Owner would be
43 required to remove the encroachments. The amount was to give them incentive
44 to remove the encroachments if they were not approved, and that
45 Encroachment Agreement is conditioned on getting approval for the front deck,
46 so they are linked together.
47
48
49
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1 Chair Bair moved and Commissioner Cox seconded a motion to deny the appeal
2 of an administrative decision at 301 Bridgeway amended so that Condition 3 of
3 the Resolution is deleted in its entirety. The motion passed 4-0.
4

5 Chair Bair indicated that Commissioner Werner had not yet returned to the
6 meeting after recusing himself for Item 4, and that the meeting would continue in
7 his absence.
8

- 9 **5. NC 10-348, Nonconformity Permit, Peck, 33 Crecienta Drive.** Nonconformity
10 Permit for the use of historical tandem parking spaces at 33 Crecienta Drive
11 (APN 064-251-21).
12

13 The public hearing was opened. Associate Planner Schinsing presented the Staff
14 Report.
15

16 Commission questions to staff:

- 17 • If the carport were not removed, would the second tandem parking space then
18 require an encroachment agreement? *Staff responded yes, the site is small*
19 *enough as to not allow the tandem parking spaces with the carport there; a*
20 *portion of the parking would encroach into the right-of-way.*
- 21 • Is any portion of the carport of the lot that is currently covered by the carport
22 going to be utilized for the remodel? *Staff responded no.*
- 23 • Did staff explore whether there is space for side-by-side parking? *Staff*
24 *responded the topography of the site would not allow a side-by-side*
25 *configuration.*
- 26 • What are the dimensions a legal parking space? *Staff responded 9x19 feet.*
- 27 • What dimensions are needed for legal side-by-side parking? *Staff responded*
28 *two 9x19 feet spaces flush against each other, which is 18 feet across.*
29
30

31 Commission questions to John Clarke, the applicant.

- 32 • Is the carport being removed to avoid having to do an Encroachment
33 Agreement for the tandem parking? *Mr. Clarke responded the carport is*
34 *awkward geometrically given the right-of-way that is on the site. It creates one*
35 *position for a car to be parked in there, making it impossible for a second car to*
36 *get onto the driveway entirely. It does not follow the natural contours of the*
37 *driveway or the site, making it difficult to park two cars. There is also the desire*
38 *to improve that approach to the house, which includes removal of the carport.*
- 39 • Can the side-by-side configuration be provided on the site? *Mr. Clarke*
40 *responded they looked at side-by-side parking, but due to the topography and*
41 *the existing curb cut it is difficult to negotiate two cars on the driveway, and the*
42 *existing curb cut is tight enough that two cars going in and out would be difficult*
43 *to do.*
44

45 The public comment period was opened.
46

47 Vicki Nichols, 117 Caledonia Street, indicated the following:

- 48 • The Historic Landmarks Board should have reviewed this project, as this
49 house is over 60 years old. It should have been triggered by a fifty-year
50

1 review. Staff responded a fifty-year review is triggered with the Discretionary
2 Permit, and since the additions and the interior remodel is covered under a
3 Zoning Permit, it does not trigger the threshold for Design Review and the fifty-
4 year review is not required.
5

6 The public comment period was closed.
7

8 **Commissioner Graef moved and Chair Bair seconded a motion to approve a**
9 **Nonconformity Permit for 33 Crecienta Drive. The motion passed 4-0-1**
10 **(Commissioner Werner – Absent).**
11

12 **Old Business**

13 None.
14

15 **New Business**

- 16
- 17 • **Planning Commission Meeting Calendar for 2011, City of Sausalito.**
18 Review of the Planning Commission meeting calendar for January and
19 February 2011.
20


21
22 **Commissioner Keegin moved and Commissioner Cox seconded a motion to**
23 **approve the Planning Commission Meeting Calendar for January and February**
24 **2011. The motion passed 4-0.**
25


26 **Staff Communications**

- 27 • Staff reviewed the agenda for the December 1, 2010 meeting.
28

29 **Adjournment**

30 The meeting was adjourned at 9:45 p.m.
31

32
33 
34 _____
35 Submitted by
36 Jeremy Graves, AICP
37 Community Development Director

38
39 
40 _____
41 Approved by
42 Stan Bair
43 Chair
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