SAUSALITO PLANNING COMMISSION Wednesday, March 16, 2011 Approved Minutes

Call to Order

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

Present: Vice Chair Stafford Keegin, Commissioner Joan Cox,

Commissioner Richard Graef, Commissioner Bill Werner

Absent: Chair Stan Bair

Historic Landmarks Board:

Present: Chair Morgan Pierce, Secretary Vicki Nichols,

Board Member John Flavin, Board Member Carolyn Kiernat

Staff: Community Development Director Jeremy Graves

Associate Planner Lilly Schinsing, City Attorney Mary Wagner

Approval of Agenda

Commissioner Cox moved and Commissioner Graef seconded a motion to approve the agenda. The motion passed 4-0.

Approval of Minutes

March 2, 2011

Commissioner Cox moved and Commissioner Graef seconded a motion to approve the Minutes as submitted. The motion passed 4-0.

Public Comments

None.

Public Hearings

1. DR/CUP/MUP 10-348, Design Review Permit, Conditional Use Permit, Minor Use Permit, Henry, 660 Bridgeway. Approval of a Conditional Use Permit to rehabilitate the existing building at 660 Bridgeway in conjunction with the establishment of a new use as a restaurant, bakery, and bar; approval of a Conditional Use Permit for alcohol service associated with the principally-permitted restaurant use; and approval of a Minor Use Permit to allow (a) outdoor seating of five tables and ten seats on private property, and (b) live music and dancing during restaurant operation hours.

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

Historic Landmarks Board questions of staff:

• In the Conditions of Approval there is a reference to a reuse of the existing exterior fixtures, but also a reference that any new exterior lighting should be downlit and shielded. Would new lighting need to be consistent but not exact copies of the existing fixtures? Staff responded any exterior changes to the current plans would be required to be reviewed again by the HLB and the Planning Commission.

Presentation was made by Chris Henry, the applicant, and Eduard Llora, project designer.

Planning Commission questions to Mr. Llora:

- Where will the music and dancing take place? *Mr. Llora responded the northeast corner of the floor plan near the wine display area.*
- In the evening how much light will come through the non-reflecting layer of the skylight and will it create glare for neighbors up the hill? Mr. Llora responded considering the size of the skylights and their height above the floor he does not believe the light will be at disruptive levels. Most of the lighting within the restaurant will be downward directed and recessed within the ceiling, so although there will be some light visible, he does not expect much of the ambient light to be reflected up through the skylights.
- Can a baffle be put on the skylight to keep the light from reflecting westerly and cause it reflect out towards the water? Mr. Llora responded if the light pollution becomes too great they could perhaps hang a fabric under the entire opening to prevent the light from seeping up through it. He has seen that done is other cases.
- The fencing around the mechanical equipment on the south side of the building appears to drop off and then come back to the roof and then the barrel roof goes up. Can that small space be filled in to have that fencing transition into the barrel vault as opposed to being chopped off? Mr. Llora responded yes, they could make it more seamless and aesthetically joined.

Historic Landmarks Board questions and comments to Mr. Llora:

- What type of the exterior wood will be used? and what finish and installation style will be used? Also where will the color swatches be applied on the façade? Mr. Llora responded their wood siding will be redwood that has been stained and sealed. He proposes to replace all the wood siding that is redwood with stained redwood. The wood trim around the windows would be finished with a matching paint to provide a seamless integration of colors and finishes between the wood elements.
- Does the green exist elsewhere on the existing structure? Mr. Llora responded no, the green is at the front of the building, which is the faded concrete finish, but they would like to take the green away in the front as well as the faded pink in the rear.
- The green in the materials pallet is incongruous with the other earthy colors.
- Removal of the green paint on the arch by sandblasting to expose the concrete is an improvement and defines the arch better, which is the major characteristic of this building.

- The new skylights along the south side will be the same as the skylights on the original Purity building and so will not be a problem.
- It is a concern that the colors were not talked about until this meeting, and then the applicant does not have the exact colors to show.

Commission question to Mr. Henry:

• Would you have a problem if the conditions for outdoor seating was changed from approval for five tables to up to five tables so two tables could be put together to accommodate four people together at one table, and that it be limited to no more than ten seats. Mr. Henry responded he felt that would be a good idea and he would go along with that.

The public comment period was opened.

Chris Hontalas, 625 Bridgeway, indicated the following:

• Will the downstairs portion of the building, which houses a café and other businesses, be affected? *Mr. Henry responded the downstairs businesses will continue as they are presently with the proposed restaurant, bar, and bakery being upstairs.*

George Hontalas, 625 Bridgeway, indicated the following:

- He is happy Mr. Henry has the opportunity to do something with his property. It would help the community if it is done well.
- Where will the garbage for the restaurant go? The garbage used to be well concealed and protected in a cove behind doors, but a few years ago that door was removed. Mr. Llora responded the garbage is located under the lower staircase in an enclosed walled off section with an access door. They will be redoing the stairs to comply with ADA requirements with the stair run becoming longer, resulting in additional space for the garbage area; they hope to then incorporate a trash compactor.
- Originally the table count for downstairs was a small number, but now they encroach on the public walkway. At night the tables are not put away.

Commission question to Mr. Henry:

• The garbage area has been sufficient until now, but will it be adequate to support the new restaurant use on the second floor? Mr. Henry responded the engineer has told him that it is enough space. It will be enlarged when they redo the stairs to comply with ADA requirements. The refuse company will remove the trash daily.

Pasquale Ancona, 621 Bridgeway, indicated the following:

- He is the owner of Angelino's Restaurant, which accommodates 85 people.
- The garbage is a big problem. What the applicant is proposing is not feasible for the proposed restaurant plus the downstairs businesses, especially on Saturday and Sunday when the garbage is not picked up.

Mark Flaherty, 30 El Portal, indicated the following:

- He is the General Manager of the Inn Above Tides.
- They support the project and consider it a wonderful addition to the downtown that will enliven the area.
- They are concerned the noise and amplified music may travel outside through the doors used to access the outdoor seating.

Nicole Back, 31 Bulkley, indicated the following:

- She is the Trustee of the Duncan Trust, owner of 31 Bulkley.
- She supports the project and is happy to see the restaurant opening again.
- She does not mind the skylights, but hopes at night they can be completely blacked out as she looks onto the restaurant's roof.
- Her tenants expect peace and quiet and she is concerned the music will come through the skylights or the outdoor access doors.
- She does not want there to be no music, but wants to ensure it is at a reasonable sound level.

Mike Monsef indicated the following:

- He supports the project. This empty building has been an eyesore to the downtown for a long time.
- The issue of garbage is very important and there needs to be sufficient space to contain it.
- There used to be music at the restaurant before. He understands people's
 concerns regarding noise. Perhaps noise mitigation such as keeping the music
 acoustic would help, but it is a place to have fun and should be allowed. If
 people choose to live downtown, they cannot expect absolute peace and quiet.

The public comment period was closed.

Planning Commission question to staff:

• Is the 1970 Variance, which was approved to allow entertainment with certain requirements, still in force today? Staff's proposed Conditions of Approval are similar but more stringent than the conditions imposed in the 1970 Variance. Staff responded Variances run with the land and they are not sure if the Variance was ever revoked. There was some contention over music in the 1970s and 1980s when Houlihan's occupied the space. Since the 1970 Variance the City has required the noise monitoring requirements for the noise study to be established before and after the establishment of the music so the ambient noise level is not increased; staff has added that Condition of Approval.

Commission comments:

 Given what has happened to the many Purity stores in California since their founding in 1929 this one is probably the best example of their original design with its openness and clarity of the ground floor and second floor that was a signature of the Purity stores. This building retains the character described as "googie" architecture. Other existing Purity stores have been destroyed

- architecturally. The Design Review Permit should be approved without exception.
- Hanging fabric under the skylights will be an easy solution to mitigate light issues, but it is unlikely there will be issues as the skylights will be tinted glass and will reduce the reflected light from the inside, which will not be intense to begin with.
- Regarding garbage, the applicant will find out quickly whether they will need to reconvert the space below that has been commandeered by Piccolo, and there may be enforcement issues there. But if the trash runs over, the County Health Department will be around to fix it.
- The front door that is being called a sign does not look like a sign. It is a work
 of art and it should not need a Sign Review Permit.
- The Commission is pleased with how the character of the building has been honored. The colors and materials are fine.
- The architect has resolved the issues regarding the equipment on the roof. The proposed language for the equipment fencing on the roof regarding tying it more aesthetically into the barrel vaults is adequate.
- Regarding noise, the Conditions of Approval proposed by the City are adequate to protect the concerned neighboring tenants.
- The Commission is concerned about the garbage, which should be addressed as part of the Conditional Use Permit.

Staff comment:

• To the extent the door falls within the definition of a sign it has to be processed as a Sign Permit. It is not within the Planning Commission's purview to not bring it back for a Sign Permit, unless the Commission can tell staff why it does not fit within the definition of a sign.

Planning Commission questions to staff:

- Can the Planning Commission delegate its authority to the Zoning Administrator so long as the sign comports with the design evidenced in the drawings? Staff responded no.
- Is there a way to avoid the necessity of a joint Planning Commission/HLB meeting regarding the sign? If the door were presented separately to the HLB and looked okay to staff, could it come to the Commission almost as a consent item rather than going through another joint meeting? Staff responded the Sign Regulations require a joint hearing of the Planning Commission and HLB.

Amended Condition of Approval regarding Design Review Permit:

The equipment fencing on the roof shall be tied more aesthetically into the barrel vaults on the south and east elevations.

Commissioner Werner moved and Commissioner Cox seconded a motion to approve a Design Review Permit for 660 Bridgeway subject to the amended Condition of Approval.

Historic Landmarks Board comments:

 The HLB had study sessions with the building owner and architect and were comfortable with the height of the roof mechanical enclosure. It is fine if the owner wishes to lower it, but it should not be a Condition of Approval knowing the vast improvements they have already made to the roofscape.

Planning Commission comments:

 The architect has indicated that lowering the fence on the roof is a positive change he would be willing to adopt, the dimensions to be within the architect's discretion.

Historic Landmarks Board question to staff:

• The color scheme was presented to the HLB for the first time at this meeting. Is there a way, without creating barriers to the applicant, the HLB could be allowed to review the color scheme before final installation? Staff responded the Planning Commission and HLB could delegate the review and approval authority for the color scheme to a subcommittee composed of representatives from the HLB and the Planning Commission.

Historic Landmarks Board comment:

 A subcommittee to determine the color scheme would be acceptable to the HLB.

Planning Commission comment:

 A subcommittee to determine the color scheme is a good idea and would tie in well with the paint outs done during the renovations, allowing the subcommittee members to see the color samples in their intended environment rather than as paint chips.

Commissioner Cox moved and Commissioner Werner seconded a motion to amend the existing motion to add the proviso that the Planning Commission and Historic Landmarks Board delegate authority to a subcommittee for final approval of the color palette proposed by the applicant, the subcommittee consisting of Commissioner Graef of the Planning Commission and Chair Pierce of the HLB.

Commissioner Werner moved and Commissioner Cox seconded the amended motion to approve a Design Review Permit for 660 Bridgeway subject to the amended Condition of Approval.

Secretary Nichols moved and Board Member Kiernat seconded a motion to accept the Planning Commission's amended motion to approve a Design Review Permit for 660 Bridgeway subject to the amended Condition of Approval.

The motion was passed by the Planning Commission 4-0.

The motion was passed by the Historic Landmarks Board 4-0.

 Amended and Additional Condition of Approval regarding Conditional Use Permit and Minor Use Permit:

- The outdoor dining area shall be changed from approval for five tables to up to five tables and shall be limited to no more than ten seats, retaining the total 108 seats.
- The Community Development Director shall be authorized to confirm that the garbage collection process ensures adequate collection at all times for the accumulated garbage from both the restaurant and the retail stores with expanded refuse storage if the collection schedule is not adequate.

Commissioner Werner moved and Commissioner Cox seconded a motion to approve a Conditional Use Permit and Minor Use Permit for 660 Bridgeway subject to the amended and additional Conditions of Approval. The motion passed 4-0.

Historic Landmarks Board Chair Pierce moved and Board Member Flavin seconded a motion to adjourn the joint meeting of the Historic Landmarks Board and the Planning Commission. The motion passed 4-0.

2. CDD 11-059, Zoning Ordinance Interpretation, City of Sausalito. Planning Commission review of staff interpretation of Zoning Ordinance Section 10.62.050.A (Nonconforming Structures) and direction for a Zoning Ordinance Text Amendment. Continued from the February 16, 2011 meeting.

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

Commission question to staff:

 Staff identified five projects requiring a Variance. Were the Variances granted in each of those five instances? Staff responded they all were granted Variances.

The public comment period was opened.

Michael Rex, local architect, indicated the following:

- There is no conflict between subsections A.5 and A6(b) as they regulate different things. One regulates renovations over 51% and the other regulates total demolition. The conflict is between the table and the text and needs to be corrected, but what is proposed is the wrong solution.
- This action will lead to added expense and additional uncertainties, which will discourage people from making needed improvements to older homes, illegal improvements, and encourage more teardowns of older homes that add the character the City strives to preserve.
- This proposed action significantly impacts 300-500 homes in Sausalito; it does not serve the community and actually harms it.
- Why is the City making it hard to preserve its older homes? Staff has not presented good reasons to justify their recommended actions other than they

- have done it like this for a long time and should be consistent. That is not a good enough reason.
- Two of the five examples staff presented as having Variances granted were total teardowns, total demolitions that required a Variance to hang onto the nonconformities.
- At the last hearing 12 members of the public spoke in opposition to this action.
 Their concerns were not considered.
- It is nonsense to call a project that demolishes 52% or 55% of a structure a "total demolition." But it is reasonable that when getting up to 90% that there is not much left and a Variance is needed. There needs to be better ground between the 51% and 90%, for example keeping most of the building shell.
- This is a complex issue that should be referred to the Legislative Committee.

Adam Krivatsy, 840 Olima Street, indicated the following:

25% of the households in Sausalito are headed by people older than 60. In the
next 20 years the housing ownership will recycle and the new owners will want
to renovate and modernize their homes, meaning many new applications will
be submitted for remodeling existing residences. The Planning Commission
should make it easy to remodel existing homes rather than put a Variance in
their way that will make it more difficult.

Mike Monsef indicated the following:

 He should be entitled to remodel his home without a Variance as long as he keeps the envelope of the building and should only need a Variance if he adds to his home.

Holly Holderman, 317 Fourth Street, indicated the following:

- If she had known ahead of time the process she has been through in the past 15 months in trying to renovate her home and keep its character she would not have bought the home and begun her project. She now faces the possibility of having to walk away from it due to the financial pressure brought on by the process.
- What will become of the character of the neighborhoods when the people who have the money to go through the process come in and bulldoze the existing homes?

Nicole Back, 31 Bulkley, indicated the following:

- As the owner of many nonconforming units and structures she wrote a letter to the Commission regarding what will happen to multiple units when they are nonconforming.
- The code issues and complications make it very difficult to own old buildings and upgrade them.

Vicki Nichols, 117 Caledonia Street, indicated the following:

• In removing subsection A.5, if a person had a nonconforming structure and wanted to demolish it does that supersede 50-year reviews for historical structures, so that if it is a nonconforming structure the Demolition Permit goes through without any review for significance? Staff responded there is a section

in Section 10.62.050.A that addresses nonconforming structures that are listed on the National Register of Historic Places and which are involuntarily demolished. Those structures can be substantially replicated subject to HLB review. A nonconforming structure over 50 years old that triggers a Nonconformity Permit, Design Review, or a Variance would be required to be reviewed under the 50-year threshold. For example, if a house burns down partially or substantially it can be replicated if a building permit is issued within one year of that demolition and the building permit would not trigger a 50-year review with the HLB.

Mary Kay Yamamoto indicated the following:

- She is President of the Marin Association of Realtors.
- This code section was drafted years ago to preserve nonconforming structures.
 What is being proposed will make it more difficult to conduct a major renovation
 of any property that does not fully conform to current zoning standards. It will
 encourage people to tear down their homes rather than restore or renovate
 them.
- Her organization recommends further consideration of any changes and that this issue be referred to the Legislative Committee.
- Another issue not being considered here is the Housing Element study with nonconforming structures. There are a lot of Sausalito properties that are nonconforming in their use, and the City would lose housing if it approves this action.

Stan Hales, 640 Sausalito Boulevard, indicated the following:

He requests the meaning of "demolish" be redefined such that the environment
of the house and work on the exterior is in one definition versus removing and
moving walls and changing the interior, so people can renovate the interior of
their nonconforming structures without triggering the requirement for a
Nonconformity Permit and/or a Variance.

Mark Rushford indicated the following:

- If this action is approved it would make it difficult for himself and others to purchase a home in Sausalito due to the financial implication between 51% and 90%.
- As a realtor he speaks with many people who would like to move to Sausalito, purchase an older home, and preserve its style and charm.
- There should be a study of the economic impact of making this change to the Zoning Ordinance, because it will significantly affect a person's willingness to purchase in Sausalito knowing the increased limitations.

The public comment period was closed.

Commission questions to staff:

 What is the difference between interior remodeling versus exterior remodeling? Staff responded it is explained in the definition of both partial and substantial demolition. Partial demolition is, "the removal, replacement, renovation, or alteration of, 1) less than 51% of the lineal footage of such existing elements as

- the interior and exterior walls as determined by the Community Development Director or, 2) less than 51% of the area of existing floors, ceilings, and roofs as determined by the Community Development Director." The substantial demolition is exactly the same except for the 51% or more.
- So an interior demolition triggers this even though the building would remain exactly the same on the exterior? Staff responded the way that the definition is written it is interior and exterior walls, floors, and ceilings.

Commission comments:

- It is somewhat convincing that there was a purpose to the enactment of this
 Nonconformity Permit process, which probably included the ability to upgrade
 old historic buildings to current standards without losing provisions that had
 been grandfathered in. Subsection A.5 should not be deleted wholesale without
 a more careful examination of that thinking, because there are a number of
 projects in the works coming to the Planning Commission that may fall under
 this nonconformity issue.
- The Legislative Committee or a subcommittee of the Planning Commission should meet with interested community members to figure out how best to thoughtfully amend this provision rather than simply adopting an overview interpretation.
- There is concern as to how this suggested solution would affect lots that are substandard and how it would impact some of the other discrepancies identified by staff. There should be careful consideration of all the impacts to come up with text that is consistent between the table and the text, and that whatever intent the Planning Commission resolves to be appropriate is carried consistently throughout the text of the ordinance.
- We should look at this ordinance as a whole, and in the meantime continue with the interpretation that staff has adopted pending an amendment to the Zoning Ordinance.
- The sections are irreconcilable in the ordinance as written. The section that is
 most consistent with the purpose of the Nonconformity Ordinance is subsection
 A6(b) by far. Subsection A.5 is inconsistent with the underlying implied
 philosophy of the ordinance.
- There are two different approaches to this issue by homeowners: 1) those who seek to preserve the historic character of the town and, 2) those who want to build new houses but, for example, take advantage of a larger lot that is available by virtue of adopting the nonconformity to their new structure.
- A definition of substantial demolition and total demolition needs to be addressed. Who picks the percentage and how is it calculated?
- The very fact of a Zoning Ordinance implies there will be nonconformance of those buildings that existed prior to that Zoning Ordinance being adopted. Evidence needs to be presented that subsection A.5 has in fact done what it is purported to have been crafted to do, which is preserve the character and legacy of Sausalito, because A.5 has been used as an easy way to get around the issue of expanding charming little buildings.
- Staff recognizes a conflict between the two sections, but one section has prevailed and will continue to prevail, and is formalized in the Resolution.

 Staff has unearthed inconsistencies in the Zoning Ordinance and there are likely other inconsistencies. It would be better to allow staff to continue unearthing inconsistencies before the Planning Commission gets mixed up with it, and then bring it back to the Planning Commission.

Commissioner Werner moved and Commissioner Graef seconded a motion to approve the resolution attached to the Staff Report which confirms the staff interpretation regarding Zoning Ordinance Sections 10.62.050.A.5 and 10.62.050.A.6(b) with the addition of references to the projects approved between 2004-2006 as identified in Exhibit H of the Staff Report. The motion passed 4-0.

Old Business

None.

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New Business

None.

Communications

Staff

- At the next City Council meeting there will be two actions provided by the Planning staff:
 - Application for the City Council to authorize the submittal of application to the State Historic Preservation Office for the City of Sausalito to be granted a Certified Local Government Status for Historic Preservation with the intention of making the City eligible for historic preservation grants. This is an outgrowth of the work now being done on the Historic Design Guidelines as well as other endeavors undertaken by the Historic Landmarks Board.
 - o Presentation of an inventory of land uses and businesses in the Marinship.
- Discussion of the Planning Commission rules and procedures will occur at the next scheduled Planning Commission meeting.

By consensus the Planning Commission meeting of March 30th was cancelled.

Adjournment

The meeting was adjourned at 9:20 p.m.

Submitted by

Jeremy Graves, AICP

Community Development Director

Approved by Stafford Keegin

Vice-Chair

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