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**SAUSALITO PLANNING COMMISSION**  
**Wednesday, May 25, 2011**  
**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, Commissioner Richard Graef, Commissioner Bill Werner

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

**Approval of Agenda**

Chair Bair indicated he would leave the meeting after two hours and requested Item 1, which he did not participate in at its last hearing, be heard at the end of the Public Hearings agenda.

Commissioner Cox moved and Commissioner Graef seconded a motion to hear Item 1 at the end of the public hearings and to approve the amended agenda. The motion passed 5-0.

**Public Comments**

None.

**Approval of Minutes**

May 11, 2011

Commissioner Cox moved and Commissioner Werner seconded a motion to approve the minutes as revised. The motion passed 5-0.

**Public Hearings**

2. **DR/TRP/EA 09-184, Design Review Permit, Tree Removal Permit, Encroachment Agreement, Trope, 105 Crescent Avenue.** Design Review Permit to construct a new single-family residential structure at 105 Crescent Avenue (APN 165-222-05); a Tree Removal Permit for 43 on-site trees; and an Encroachment Agreement to install a portion of the driveway approach in the Crescent Avenue public right-of-way. The project requires approval of Heightened Design Review findings. The public hearing was continued from the May 11, 2011 Planning Commission meeting.

The continued public hearing re-opened. Assistant Planner Thornberry-Assef presented the Staff Report.

1 Commission questions and comments to staff:

- 2 • The geotechnical report states there have been no landslides at or adjacent to  
3 the project site, but in the late correspondence two different neighbors wrote to  
4 describe a hillside collapse on Crescent in 1981. The geotechnical report  
5 references a “landslide and mudflow within a well defined, steep, v-shaped  
6 canyon area.” It needs to be determined whether this event in the geotechnical  
7 report is the same as that described by the neighbors. It is concerning if the  
8 author of the geotechnical report is not aware of the landslide incident.
- 9 • Why does staff recommend a departure from the mitigation measures  
10 recommended in the environmental review document? Staff recommends no  
11 offsite project improvements to address the continual gutter flow that has been  
12 occurring. *Staff responded that the gutter flow would still originate offsite from*  
13 *the 105 Crescent project site. This project will not affect the spring and existing*  
14 *gutter flow. There is no nexus to relate this project to the existing flow in order*  
15 *to require the applicants to install a catch basin in front of the existing*  
16 *residence at 123 Crescent, several houses up the hill from the project site.*
- 17 • Did the City Engineer decide that this mitigation measure recommended by the  
18 environmental report need not be complied with? *Staff responded yes. The*  
19 *applicant initially objected to the mitigation measure. Planning staff and legal*  
20 *staff concurred with the applicant’s concern that the proposed mitigation*  
21 *measure was overreaching in requiring the applicant to mitigate an impact that*  
22 *was not created by or affected by the project.*
- 23 • Where is 123 Crescent with respect to 105 Crescent? *Staff responded it is five*  
24 *or six residences up the hill, so the spring is several residences up the hill from*  
25 *the project site. The original mitigation measure required the applicant install a*  
26 *catch basin several residences uphill from their project and an underground*  
27 *pipe going downhill from their project site. While this would be a desired*  
28 *improvement, there is no nexus between the impacts created by this project*  
29 *and the mitigation measure that was proposed.*
- 30 • Was the hydrology report not included in our materials? *Staff responded*  
31 *hydrology reports are generally not done prior to Planning Commission review;*  
32 *rather they are done at the Building Permit stage. The hydrology report was a*  
33 *preliminary report that was done specifically with the Engineering Division.*  
34 *Staff can provide the report to the Planning Commission.*
- 35 • Was there a soils report also performed preliminarily? *Staff responded the*  
36 *geotechnical report is the soils report.*
- 37 • How will this project provide for drainage from the site to the City’s existing  
38 underground stormwater system? *Staff responded there is no underground*  
39 *pipe across the project site’s frontage, only a gutter, with an additional catch*  
40 *basin downhill at 93 Crescent. The onsite drainage and collection system is*  
41 *designed so there will be no increase or decrease in the offsite runoff from this*  
42 *project site during the 10 year design storm. On that basis, the project is*  
43 *designed so there is no impact on the existing drainage that is going past the*  
44 *project site as a result of this project. Still the project is required to put an*  
45 *underground pipe across its frontage.*

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49 Presentation was made by John Bells, the architect and applicant.

1 Commission comments:

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- The Commission just got the 2003 geotechnical report. It only contains the foundation plan and types of piers and how deep they should be for the construction of the foundation, but has no excavation plan in it for how the soil stability on the hillside will be managed as the trees are removed.
  - What the geotechnical report says about soil quality is true for three of the five test borings, but the other two were less conclusive. One of them referenced, "Nine feet of sandy silt soil material underlain by marine volcanic bay salt that was very severely to completely weathered and of low hardness," which makes for great concern regarding the proposed "soil nailing" for anchoring into the hill.
  - It is not clear that the various Conditions of Approval and reports coincide to ensure that there is a systematic plan for removal of trees, erection of retaining walls, and the sinking of piers to ensure soil stability as construction goes along.

17 Commission questions to Mr. Bells:

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- There is no mention in the geotechnical report of the impact of the removal of the 43 trees. What is the plan for when the root system that is holding the entire hill together is gone? *Mr. Bells responded hopefully when the trees are removed they would begin construction and start stabilizing the hill at the same time..*
  - Are you moving one of the retention basins under the residence? *Mr. Bells responded it is not under the residence; it is beside the residence. They moved it away from the residence at 111 Crescent in an attempt to save three of the trees on that property that are in the arborist's report. The retaining wall there will be drilled piers and not a large piece of concrete like a normal foundation footing. The retention tank will be moved uphill about 16 feet away from the trees.*
  - Have you been to the property at 528 Sausalito Boulevard above the subject site and does this project impair views from there? *Mr. Bells responded there is no view impairment.*

35 The public comment period was opened.

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37 Andrew Dunn, 111 Crescent Avenue, indicated the following:

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- He has submitted a letter to the Planning Commission signed by himself, his partner, and several neighbors voicing their concerns.
  - They question how the calculation of the permitted Floor Area Ratio of 80% was done.
  - The distance between their house and the proposed property is 9 feet in the front, which impacts their reasonable level of privacy and light and air as the decks in the living room and bedroom will face the proposed home and its decks.
  - The current story poles do not reflect the upper outside deck on the third living floor.
  - The upper rooftop is higher than their house, adding to the bulk and size of the project as it pertains to the adjacent residences on either side of the project.

- A major concern is excavation and grading of the very steep hillside. All excavation grading and retaining walls should be completed within one season, as there are a number of underground springs and water coming out of the hillside could undermine its stability.
- An insurance policy should be put in place in the event of damage from earth movement or deterioration during excavation and construction, and a performance bond should be put in place to ensure that the house is completed.
- A construction and traffic management plan should be in place before construction starts so streets will not be blocked.
- They appreciate the applicant trying to help them save their trees, but their arborist has stated the trees are fine; they are trimmed and treated for Sudden Oak Death. They wish to keep the trees because they add to their privacy and the “tree house effect” of their home.
- The hillsides are so saturated that a significant path of water comes down the street when there is a serious rain, as they have had this year. They are concerned about the water tanks, the drainage, and the debris that could get into them and the potential flooding and erosion if they back up.

Ron Lussier, 89 Crescent Avenue, indicated the following:

- Their property had the landslide in 1982, but it came down from 101 Crescent.
- The design of the proposed home is beautiful, but it looks big from the street. If the top floor were stepped back even further it would minimize the effect on the neighboring houses and reduce the massive appearance of the house.
- He is concerned about the drainage plan with the water coming in a pipe on one side of the property and then popping back out onto the street on the other side. It would make more sense to add a new catch basin on the uphill side of the property and not just divert the water around the property.
- The street is very narrow and gets muddy in the winter if there is digging going on. He asks that there be a condition that the excavation be done and completed in the same dry season and have a bond guaranteeing that. He agrees with Mr. Dunn that a completion bond is also desirable.
- He is concerned there are three curb cuts on this house. The parking on Crescent Avenue is minimal to start with. It would be nice if they did not have to take the entire front of the house for driveways.

Les Waller, 528 Sausalito Boulevard, indicated the following:

- He and his wife live directly above the proposed project site. They have had construction going on across the street for four years and do not want a long-term project going on directly below them as well.
- They have major concerns with the hillside excavation that is proposed and what will happen to their property. There needs to be a better plan that possibly does not do so much excavation and uses the hillside itself for their design, that builds on top rather than taking the trees down and tearing into the side of the hill. With the springs in that area that entire hillside could come down.
- He agrees there needs to be a performance bond in place, as well as time constraints on the excavation to be done within one dry season. Also there

1 needs to be an insurance policy to ensure the surrounding homes are  
2 protected.

- 3 • Tree removal is a major concern because it will affect their privacy. He would  
4 like the number of trees to be removed drastically reduced.
- 5 • A clearer geotechnical report needs to be evaluated to a greater extent by the  
6 City Council before they even consider this project. There are too many loose  
7 ends.  
8

9 Maxey Stram, 134 Crescent Avenue, indicated the following:

- 10 • She is concerned about the traffic control for the construction site. She wants it  
11 emphasized that drivers do not bring in oversized vehicles that create a safety  
12 issue or park their personal vehicles in red zones and driveways. She would  
13 like the workers to park offsite.
- 14 • Her husband is concerned regarding the cisterns for the water flow. If they get  
15 full, what is the process for their maintenance?  
16

17 Bob Sass, 140 Crescent Avenue, indicated the following:

- 18 • Is the area for the three garages part of the total 1,957 square feet? *Staff*  
19 *responded 500 square feet of any garage within the City does not count*  
20 *towards the floor area calculation. There is also an additional 250 square foot*  
21 *allowance for residences that are more than 50% subterranean, in this case*  
22 *mostly the storage area.*
- 23 • Does the project now meet the 80% floor plan requirement? *Staff responded*  
24 *the project does not exceed 80% of what is allowed onsite. What is allowed*  
25 *onsite is 45% of the total parcel size for floor area. What they are exceeding is*  
26 *80% of the 45%.*
- 27 • He would like a condition that workers are required to use City lots and be  
28 brought to the site or use carpooling, and asks who does the enforcement?  
29 *Staff responded they work with the Police Department on projects. Also the*  
30 *Building Inspector takes the Conditions of Approval with him to sites to inspect.*
- 31 • How far back from adjacent properties is the proposed residence to be set?  
32 *Staff responded it is 5 feet from the property line, which is required by the*  
33 *Zoning Ordinance.*  
34  
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36 Kim Edwards, 528 Sausalito Boulevard, indicated the following:

- 37 • She hopes this project will be better managed than the one near them.  
38 Although they have a carport, they cannot get out of it because of all the  
39 construction vehicles.  
40

41 Mr. Bells' rebuttal to public comments:

- 42 • The conditions are written out to manage construction, although he does not  
43 know how they are enforced. He hopes it will be done properly, but he is the  
44 architect, not the builder.
- 45 • The owners of 111 Crescent Avenue wish to sell their home and are concerned  
46 a new house next door will hinder their sale and that the proposed home's  
47 balcony is too close. He believes the project will improve the value of their  
48 property, and he is willing to take a little off the balcony so it is not the full width  
49 of the property and add a solid railing for privacy.  
50

- There was a suggestion to move the top floor back, but then the house height becomes more than 40 feet and would need a Variance in order to have the residence use the standard five-foot side setback. It is important to have a three-car garage because there is very little parking on that street.
- The arborist's report actually shows 49 trees to be removed. Are you saying there is an updated report? *Mr. Bells responded yes, there was a three-page letter sent via fax to the owner that he forgot to bring, and no copy was sent to staff. He can bring it to staff the next day.*

The public comment period was closed.

Commission comments:

- The Commission should look at a more sustained maximum storm period than a ten-year storm, because there might be more rain in the future than has been seen in the past ten years, as happened this past year.
- This intensely geotechnical project should be continued or denied. The Commission received the 45-page 2003 geotechnical report that addresses major concerns only this evening. The Commission needs time to digest the report, as well as the late mail from neighbors that also raise major issues.
- Regarding the 5 foot setback issue, as a Heightened Review project the Commission can ask the applicants to move the whole house back more than 5 feet if appropriate from a privacy perspective as Heightened Review has requirements that provide adequate privacy.
- The Commission would like to question the City Engineer regarding the revised Mitigation Measure 12 and should postpone its final decision on this project until it has done so.
- When building on a hillside like this one cannot expect there to be all the final details regarding the exact process of construction as part of a submission for approval.
- Building up to the 5-foot setback is not a concern and probably benefits the design. The three garages and apron would be beneficial to the parking situation on Crescent Avenue.

Commission questions to the City Attorney:

- Are the neighbors' requests for performance bonds and insurance policies legitimate requests? Are they legal in terms of requirements that the Planning Commission can place on a project? *The City Attorney responded performance bonds to do private improvements on private property could not be obtained, as the City does not want to be in a position to draw down a bond to complete construction of someone's residence. The insurance question has come up frequently at this level. Some property owners have obtained assurances for their neighbors that they have appropriate levels of insurance, but that has been handled between the private parties without City involvement.*

Commission comments:

- Condition 16 in the mitigation measures requires bonds be required by the City to ensure sufficient funds are held in reserve to stabilize project slopes in case of an unforeseen halt in construction prior to project completion and to ensure

1 completion of the project foundations and retaining walls, which is another  
2 issue that was raised by the public.

- 3 • The issues regarding the geotechnical, the foundation, and the retaining walls  
4 will get solved. The houses built up and down that street all had those issues  
5 during construction.
- 6 • A 5-foot setback is tight, but that is the setback. The advantage for parking  
7 provided by the architect is appreciated.
- 8 • The design would benefit if the top floor of the house were stepped back  
9 further.
- 10 • There are a number of small details that would benefit by this project being  
11 continued:
  - 12 • The updated arborist's report needs to be provided to the Commission.
  - 13 • The Commission and staff need more time to review the geotechnical  
14 report.
  - 15 • It needs to be determined what frequency of storm to plan for, whether  
16 the ten-year storm is adequate for the catch basin.
  - 17 • There needs to be a clear, understandable identification of the trees to  
18 be removed, such as tagging each tree.
  - 19 • Each mitigation measure needs to be addressed in the Conditions of  
20 Approval, or vice-versa.
  - 21 • Consider picking up the setback that exists at the garage and the entry  
22 and cut both decks off at that line, which would go a long way toward  
23 reducing the mass of the building.
  - 24
  - 25

26 **Vice Chair Keegin moved and Commissioner Cox seconded a motion to continue**  
27 **the public hearing for 105 Crescent Avenue to a date uncertain. The motion**  
28 **passed 5-0.**  
29

- 30 **3. DR/SP 11-101, Design Review Permit, Sign Permit, Clipper Yacht**  
31 **Company, LLC, 310 Harbor Drive.** Design Review Permit and Sign Permit to  
32 allow the installation of one business identification monument sign located at  
33 310 Harbor Drive (APN 063-030-01). The public hearing was continued from the  
34 April 13, 2011 Planning Commission meeting.  
35

36 The continued public hearing was re-opened. Associate Planner Burns presented the  
37 Staff Report.  
38

39 Presentation was made by Dale Hoover, the applicant.  
40

41 Commission question to Mr. Hoover:  
42

- 43 • You are proposing to use LED lights, which can be harsh. What is the color of  
44 the light coming from the sign? *Mr. Hoover responded the raised lettering is*  
45 *made of acrylic with an opaque face, so light will not come through the face,*  
46 *but the edges of acrylic will be sandblasted so that it would act as a diffuser.*  
47 *The color would be white on the lettering. The white panel on the main ID sign*  
48 *is spaced off of the blue background and that 2-inch space will have blue LED*  
49 *light hidden behind the white channel, which would read blue on blue.*  
50

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

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4 **Vice Chair Keegin disclosed that he had met with Mr. Peterson on May 25, 2011.**

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6 **Commissioner Werner disclosed that he had met with Mr. Peterson on May 16,**  
7 **2011.**

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9 **Commissioner Graef disclosed that he had met with Mr. Peterson.**

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11 Commission comments:

- 12 • The signage scheme and the sign itself are impressive and appropriate.
- 13 • This sign is part of a branding program to change the image of Clipper Yacht  
14 Harbor and is more than acceptable.
- 15 • The sign as it is proposed goes well in the context of the overall program, as  
16 part of the branding process, and as part of the landscaping.
- 17 • This sign is consistent with recent upgrades made at the harbor and its future  
18 plans.

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21 **Chair Bair moved and Commissioner Cox seconded a motion to approve a Design**  
22 **Review Permit and Sign Permit for 310 Harbor Drive. The motion passed 5-0.**

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24 **Chair Bair left the meeting at 8:45pm.**

- 25  
26 **4. CUP 11-138, Conditional Use Permit, Henry, 660 Bridgeway, Suite 5.**  
27 Conditional Use Permit to allow a four-seat wine tasting bar associated with a  
28 previously permitted art gallery and wine shop at 660 Bridgeway, Suite 5 (APN  
29 065-133-25).

30  
31 Commission questions to staff:

- 32 • There is an inaccuracy in one of architect's drawings that show two rooms  
33 identified for storage and trash that have been taken over by the café and is  
34 occupied by tables and chairs, although it is doubtful the café has permission  
35 to occupy this area. This project should be continued until the Commission is  
36 presented with accurate drawings.
- 37 • This project should not be continued over the inaccurate drawing because it is  
38 a CUP for an interior shop. The plans for the shop itself are accurate.

39  
40 Presentation was made by Chris Henry, the applicant.

41  
42 Commission questions to staff:

- 43 • Where are the City's other 18 alcoholic licenses located? *Staff responded the*  
44 *majority of them are related to restaurants in the downtown area.*
- 45 • How many of those alcoholic licenses are not associated with service of food?  
46 *Staff responded three.*

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49 The public comment period was opened.



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

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- 3 • We have the same issues with the downstairs café as with Fish restaurant. On
  - 4 a nice day those inside chairs will go outside. The issue is how many chairs are
  - 5 physically allowed there and do they move inside or stay outside?

6 Linda Fotsch indicated the following:

- 7
- 8 • As a downtown landlord and business owner, she is concerned about the
  - 9 downtown mix and overconcentration of businesses, such as those that serve
  - 10 alcohol.
  - 11 • She encourages the City to do a study of downtown Sausalito's restaurants
  - 12 and alcohol use. Local businesses owners will say alcohol service does not
  - 13 need to be amplified in the downtown and would encourage other uses.
  - 14 • She and other downtown businesses support something going into the upstairs
  - 15 of that building because it has been vacant for so long, but this is a piecemeal
  - 16 application and they have not truly seen what is going to end up in this location.

17 Mr. Henry's rebuttal comments:

- 18
- 19 • He did neighborhood outreach and spoke to all the businesses within 500 feet
  - 20 of his proposed wine bar. Everyone he spoke to was in favor of the project.

21 Commission question to Mr. Henry:

- 22
- 23 • Is it your intention to have other uses in the building that would require ABC
  - 24 licenses? *Mr. Henry responded no.*

25 The public comment period was closed.

26 Commission comments:

- 27
- 28 • Although Ms. Fotsch's concerns are understandable, it is not likely a 325
  - 29 square foot establishment with the approach of doing more than tasting and
  - 30 selling of wine can be seen as a threat to other businesses.
  - 31 • There is no concern regarding overconcentration because there is a distinction
  - 32 between the different types of licenses and experiences purveyed by the
  - 33 various downtown businesses. This business will not detract from the other
  - 34 wine tasting establishments in close proximity, and it is possible patrons will
  - 35 hop from business to business as is done in the wine country.
  - 36 • It is not the Commission's job to decide amongst competitors. It is the
  - 37 Commission's job to determine whether the community as a whole is benefited
  - 38 by this particular application consistent with the ordinance. This project, if done
  - 39 as well as it appears it will be, will help bring people and movement into the
  - 40 arcade, which is a kind of dead zone presently.

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44 **Commissioner Werner moved and Commissioner Cox seconded a motion to**

45 **approve a Conditional Use Permit for 660 Bridgeway. The motion passed 4-0.**

- 1       **1. DR/CUP/TRP/EA 10-388, Design Review Permit, Conditional Use Permit,**  
2       **Tree Removal Permit, Encroachment Agreement, Jensen-Komer, 38 Lower**  
3       **Crescent Avenue.** Design Review Permit and Conditional Use Permit to  
4       construct a new two-family residential structure with attached carport and two  
5       parking spaces in a tandem configuration to 38 Lower Crescent Avenue (APN  
6       065-231-32); a Tree Removal Permit to remove four on-site trees; and an  
7       Encroachment Agreement to construct a portion of the driveway with guardrail  
8       and a wood entry landing in the Lower Crescent Avenue public right-of-way.  
9

10 The public hearing was opened. Community Development Director Graves presented  
11 the Staff Report.  
12

13 Presentation was made by Anne Komer and Lars Jensen, the applicants.  
14

15 The public comment period was opened. Being none, the public comment period was  
16 closed.  
17

18 Revisions to the Resolution of Denial:  
19

- 20       • Page one, sixth line, remove the phrase, “Although the design of the residence  
21       is creative and architecturally innovative,” and then begin the next line with a  
22       capital T.
- 23       • Page two, in the middle, the phrase, “There is an industrial and modern feel to  
24       the design.” Remove the “and modern,” because it is not necessary or  
25       appropriate. The Commission should not by reference discourage things that  
26       are modern.  
27

28 **Commissioner Werner moved and Commissioner Cox seconded a motion to**  
29 **adopt the Resolution of Denial as revised for 38 Lower Crescent Avenue. The**  
30 **motion passed 4-0 (Bair – Absent).**  
31

## 32 **Old Business**

33 None.  
34

## 35 **New Business**

- 36
- 37       **5. Appointment of Representative to Legislative Committee.**  
38

39 Community Development Director Graves presented a Staff Report.  
40

41 Commission question to staff:  
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- 43       • When does the Legislative Committee meet? *Staff responded the Committee*  
44       *does not have standing meetings. The meetings usually in the morning or at*  
45       *the end of the day, due to the schedules of the Councilmembers. The meetings*  
46       *tend to be much more in depth and there is a strong desire from the area*  
47       *architects to be integrally involved.*  
48

49 **Vice Chair Keegin moved and Commissioner Werner seconded a motion to**  
50 **appoint Commissioner Cox as the Planning Commission’s representative on the**

1 **Legislative Committee for discussions regarding a Zoning Ordinance Text**  
2 **Amendment to clarify the provisions regarding Non-Conforming Structures. The**  
3 **motion passed by consensus.**  
4

5 **Commissioner Cox moved and Commissioner Werner seconded a motion to**  
6 **appoint Vice Chair Keegin as alternate representative on the Legislative**  
7 **Committee. The motion passed by consensus.**  
8

9 **Communications**

10 **Staff**


- 11 • The Planning Commission can begin its discussion of the Historic Design  
12 Guidelines and the associated environmental review document at its June 15<sup>th</sup>  
13 meeting.  
14

15 **Planning Commissioners**

- 16 • The next Housing Element Task Force Community Workshop will be held on  
17 July 16, 2011 at a location to be determined.  
18

19 **Adjournment**

20 The meeting was adjourned at 9:47 p.m.  
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25 Submitted by  
26 Jeremy Graves, AICP  
27 Community Development Director  
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25 Approved by  
26 Stan Bair  
27 Chair  
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