# SAUSALITO PLANNING COMMISSION Wednesday, May 29, 2013 Approved Summary Minutes

#### Call to Order

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

Present: Chair Joan Cox, Vice-Chair Bill Werner,

Commissioner Richard Graef, Commissioner Stafford Keegin

Absent: Commissioner Stan Bair

Staff: Community Development Director Jeremy Graves

Associate Planner Heidi Scoble, Associate Planner Lilly Schinsing, Contract Planner Rafael Miranda, City Attorney Mary Wagner

### **Approval of Agenda**

Vice-Chair Werner moved and Commissioner Keegin seconded a motion to approve the agenda. The motion passed 4-0.

**Public Comments On Items Not on the Agenda**None.

# **Approval of Minutes**

April 24, 2013 May 15, 2013

Vice-Chair Werner moved and Commissioner Graef seconded a motion to approve the summary minutes for April 24, 2013, as amended. The motion passed 4-0.

Commissioner Graef moved and Vice-Chair Werner seconded a motion to approve the summary minutes for May 15, 2013, as amended. The motion passed 4-0.

# **Public Hearings**

Declarations of Planning Commissioner Public Contacts Chair Cox disclosed that several weeks ago she had spoken briefly with the applicant for Item 2 (Saylor's Restaurant).

1. DR 13-074, Design Review Permit, Campbell, 101 Lincoln Drive. Design Review Permit to allow an addition to the existing condominium, which includes the new construction of a two-car garage within the footprint of the existing parking deck, a breakfast room addition, and the conversion of the basement and crawlspace to habitable floor area, including the construction of a new exterior deck. The public hearing was opened.

Associate Planner Scoble presented the Staff Report.

The public testimony period was opened.

Presentation was made by John McCoy, the applicant.

The public made no comments.

The public testimony period was closed.

### Commission comments:

- Although there were initial reservations regarding the roof, after driving through the neighborhood it appears to be fine and can be supported.
- While a flat roof would be preferred, the project is well thought out.
- All the buildings in that area were built at the same time. They all have flat roofs and open parking decks and some have subsequently added garages. A peaked roof does not contribute to the neighborhood.
- A letter from Mr. McCole of 105 Lincoln Drive states the project will take two
  cars off the street, which is not true as those two cars are already off the street.
  If the parking garage ends up with two cars in it, it will be a net zero change in
  terms of cars on the street. However, more often than not the conversion of
  open parking decks to enclosed garages puts cars on the street because the
  garage is used for storage.
- The Commission is inclined to defer to the HOA in reviewing and assessing the design concept. The homogeneity in the design to make it consistent with what exists within that home is appreciated.

#### Commission questions and comments to Mr. McCoy:

- The proposed garage overlaps the parking area currently available to 103 Lincoln Drive to the south. If 103 Lincoln decided to build a garage they would have to move into the 12-foot setback on the south side of that unit in order to do it. Mr. McCoy responded the roof eave would overhang the wall. The low 36-inch wall currently between the two parking decks, which is also intruding, would likely be removed to build the garage. Should 103 Lincoln choose to build a garage, their parking deck elevation is 34 inches below and the slabs are offset, so it would not be difficult to put another garage on 103 Lincoln.
- Would you still have the required width in between that and a new wall? Mr. McCoy responded if 103 Lincoln were to take the same concept and build on the right side of their parking deck, where there is another half-wall, they would need to raise that wall and would have two legal parking spaces within the garage, except 3 feet lower. That height discrepancy would make it easy to design roofs that would not interfere with each other.
- Is it correct that the owner of 103 Lincoln submitted a letter in favor of the project to the homeowners association? *Mr. McCoy responded the owner of 103 Lincoln submitted a letter with language indicating she supports the*

- project. The owner also reviewed the plans with Mr. McCoy and signed each sheet of the plan set.
- Did the homeowners association address this particular issue? *Mr. McCoy responded the HOA's CC&Rs state each unit is entitled to 50% of the common area, defined as any undeveloped area, with the caveat that the other owner has to sign off on any development.*

Commissioner Keegin moved and Commissioner Graef seconded a motion to approve a Design Review Permit for 101 Lincoln Drive. The motion passed 4-0.

The public hearing was closed.

2. SP 12-026, Sign Permit, SCOCCO 2009 LLC and Vera Corporation, 2009 Bridgeway. Design Review of a Sign Permit to allow an after-the-fact approval of a wall sign with external illumination, fascia board sign and projecting sign.

The public hearing was opened.

Contract Planner Miranda presented the Staff Report.

The public testimony period was opened.

The applicant did not make a presentation.

The public made no comments.

Commission question to the Mr. Saylor, the applicant:

 How was it you happened to install these signs and parapet without first obtaining permits? Mr. Saylor responded he did not realize that it would be a permit-related issue.

The public testimony period was closed.

#### Commission comments:

- The findings required for deviation from the requirements that the sign be 36 feet or less cannot be made.
- Staff's recommendation to remove the fascia board sign has merit.
- It is disturbing to have yet another project come before the Commission asking for approval for something done without a permit.
- A better job could have been done on the signs given the restaurant itself and its presence in the community, but there is nothing wrong with them technically or code-wise.
- The Commission does not object to going beyond the 36 square foot limit given recent approvals for Salito's and Bar Bocce. However, from a design perspective the fascia sign does not add much and in fact detracts from the otherwise attractiveness of the building.
- The lighting is appropriate.
- Staff has found that the signs are otherwise compliant with the code.

Vice-Chair Werner moved and Chair Cox seconded a motion to approve a Sign Permit for 2009 Bridgeway. The motion passed 4-0.

The public hearing was closed.

**3.** CUP 13-107, Conditional Use Permit, Lappert, 817 Bridgeway. Conditional Use Permit to allow the on-site sale of beer and wine at the existing restaurant.

The public hearing was opened.

Contract planner Miranda presented the Staff Report.

Commission questions to staff:

- Do we know if the ABC would require a barrier between the outdoors dining area and the public sidewalk? Staff responded they had spoken with the ABC who indicated they would require some kind of barrier. When told stanchions would be the best fit, the ABC indicated that would meet their barrier requirement.
- What is the purpose of the stanchions? Staff responded the ABC requires them to delineate the drinking area, so patrons do not carry their drinks onto the sidewalk.

#### Commission comments:

- Where the stanchions will be positioned on the very narrow sidewalk is a concern. On weekends the sidewalk in this area is crowded. If the stanchions are installed patrons will not be able to get to the tables, unless they stumble over the steps.
- The Commission is not inclined to approve a project when there is a difficult issue outstanding relative to whether the stanchions are going to work or not.
- There is a design issue and the plans do not demonstrate how it will be dealt with. The Commission appreciates that the applicant only realized the design issue today and has not had an opportunity to propose a solution. The Commission would like to give the applicant that opportunity. The other option is that the Commission approves a Conditional Use Permit that limits the alcohol to the interior of the restaurant.

The public testimony period was opened.

Presentation was made by Michael Lappert, the applicant.

Commission question to Mr. Lappert:

 If the CUP is approved do you intend to erect any kind of signs that say beer and wine? Mr. Lappert responded no. They want to sell beer and wine because their clientele frequently requests it but they are not in the business of selling alcohol. The restaurant will not be a drinking establishment because it closes at 7:00pm. The public made no comments.

The public testimony period was closed.

#### Commission comments:

- The sale of beer and wine at this establishment is appropriate, but it should be ensured that the narrow sidewalk, which is crowded on the weekends, is not blocked.
- The problem this use has at this spot is pedestrian congestion, leading to the
  question many years ago of whether to have outside tables at all. Now it would
  be even more of a bottleneck than it already is if that space were to be further
  constricted. The Commission has an obligation ascertain how stanchions in
  that location would work.
- There are real issues with the outside seating. If there is now going to be a new
  requirement that would further exacerbate that there are two options to look at:
  one, to restrict the alcohol use to the restaurant's interior, and two, rethink the
  outside seating to fit better. It would be difficult to approve the application not
  knowing how the outside seating issue will play out.
- The Commission would be comfortable with the Community Development Director making a decision on the barriers to be based on ADA compliance as well as the appropriateness as to the design of the barriers to the building and the operations conducted therein while being mindful of the congestion that is common on that sidewalk in order to devise a solution that improves any impact on that foot traffic to the extent possible.

#### Amendment to Conditions of Approval:

 Condition of Approval 2 shall be amended to remove "Should" to make the statement, "For so long as the Department of Alcoholic Beverage Control (ABC) requires a physical barrier be installed for the outdoor dining area, the applicant shall provide stanchions . . ."

Vice-Chair Werner moved and Commissioner Graef seconded a motion to approve a Conditional Use Permit for 817 Bridgeway subject to the amended Condition of Approval. The motion passed 4-0.

The public hearing was closed.

#### **Old Business**

None.

#### **New Business**

4. CDD 13-114, Amnesty ADU Regulations—Interpretation / City-Wide, City of Sausalito. Interpretation of the Amnesty Accessory Dwelling Unit regulations to allow amnesty for Accessory Dwelling Units that have been recently removed.

Associate Planner Schinsing presented the Staff Report.

### Commission questions to staff:

- If an ADU was illegal in the first place, how is it determined when it was built and when it was removed? Staff responded as part of the amnesty process the City requires property owners to submit the documentation showing the unit was established before January 1, 2012. Acceptable documentation is affidavits from other property owners and prior tenants, tenant rental agreement forms, rent checks, et cetera.
- Are the amnesty requests that have come up because of code enforcement or voluntary removal of the units? Staff responded they are aware of one where the property owner removed the kitchen to comply with code enforcement.
- Do you have any idea of how many originally illegal units existed that may have had their kitchens removed? Staff responded it is aware of some that were undertaken in the last 7 to 5 years due to code enforcement but is not aware of any voluntarily kitchen removals.
- If someone were to pursue this to get amnesty, they would not necessarily have to comply with all of the regulations for new construction. It is a limited set of requirements for the existing ADUs, correct? Staff responded that is correct. The ordinance requires compliance with a housing unit inspection by the Building Division and the Fire District.
- Are the only ADUs that are being considered those that have been "decommissioned" by virtue of the removal of the kitchen and so it cannot come through the amnesty process unless only the kitchen has been removed, correct? Staff responded that is how they crafted the criteria, so it only would require the installation of the kitchen and no other interior or exterior construction other than those items that would have already been required by the Building Diversion and the Fire District inspection.
- What if an ADU was decommissioned because of a code enforcement action and the decommissioning action was comprised of more than simply removing the kitchen, for instance changing the nature of the door? Staff responded in instances of code enforcement the kitchen was the item that required removal.

#### Commission comments:

- The inconsistency between the local ordinance and state statutes did not have anything to do with voluntary decommissioning but did have to do with code enforcement. Amnesty should only be allowed when it was a code enforcement issue in the first place.
- If Paragraph 1 says only ADUs whose kitchens have been removed shall be considered eligible under this, that would clarify that it is only decommission by kitchen removal that is being considered.
- If a home changed ownership and the a new owner became aware of the
  existence of an ADU and voluntarily decommissioned it upon purchase knowing
  the City's code prohibited it, they should be included. It is unfair to allow people
  who did not remove their illegal units this amnesty and not allow those who made
  a good faith effort to comply with what can be considered an improper ordinance.

The public testimony period was opened.

Doug Childs, 85 Harrison, indicated the following:

- They purchased 617 Locust Road in 2007 as a duplex with an illegal third unit on the bottom that contained a kitchenette.
- A year after purchase they were told to remove the illegal third unit through code enforcement. They complied and rented the space as an office to the unit above it.
- When they heard about the amnesty program they were excited because local people wanting to rent the unit had approached them. They applied and found they could not comply because the unit had no kitchen. They were told to go through the new ADU process instead but found that would not work.
- Those who have not experienced code enforcement are now free to convert their units but he and his wife are stuck in limbo.

The public testimony period was closed.

### Commission comments:

- This ought to be narrowed to include only ADUs removed due to code enforcement. The other circumstances are such that an owner, if they voluntarily removed the kitchen, has the option to make a new ADU application. That should be the way it works.
- Had the subcommittee that drafted this regulation been aware of this issue it
  would likely have followed staff's recommendation that there be a 5-year look
  back period where if someone can demonstrate that they stopped the use of an
  already existing ADU either voluntarily or due to code enforcement they should
  not now be penalized. The difference is the new statute has precise regulations
  regarding size and other construction parameters that do not apply to units
  already built.
- There should be no time limit on the ability to bring an ADU back into use under the new ordinance through amnesty after decommissioning their ADU due to code enforcement.
- The whole purpose of the amnesty program and the ADU ordinance is to increase Sausalito's housing stock for lower income individuals. The approach of having no time limit for those who decommissioned their ADUs due to code enforcement would be consistent with the goals of the ordinance.

#### Staff comment:

 Staff grappled with what time frame to put on the ADUs. The thinking is if it has been longer than a certain period—and staff picked 5 years—then the neighborhood has already absorbed the fact that the unit does not exist in the neighborhood anymore and to have the unit come back would be a shock to the neighborhood. Staff found evidence in files that go back to the 1970s of code enforcement requiring ADU decommissioning through kitchen removal.

#### Commission comments:

- Staff's reasoning behind its amnesty time frame is sound. The comment advocating no time limit is withdrawn.
- Voluntarily removed ADUs ought not to be given amnesty, but those that have been removed for code enforcement should. One was a decision made on the

- part of the property owner on their own. The other one was a decision made on the part of the property owner because authority forced it on him. It is not the intention of the ADU ordinance to perpetuate those units that are substandard by virtue of the new ADU ordinance.
- If a homeowner for altruistic reasons decided to be law abiding and decommissioned his ADU he will now be punished.
- The look back period is 5 years and the amnesty period is limited, so there are not a huge number of potential applicants given the remaining time period for the amnesty.
- The resolution is fine as it is written. It will not have a huge impact. The other issues regarding exactly when and for what reasons the kitchens were removed could be debated forever with no decision made. Instead, this resolution should be adopted.

Chair Cox moved and Commissioner Graef seconded a motion to approve the Resolution regarding eligibility for an amnesty Accessory Dwelling Unit permit. The motion passed 3-1 (No-Werner).

5. Planning Commission Representative on Marinship Steering Committee, City Council.

Associate Planner Schinsing presented the Staff Report.

Commission questions to staff:

- When would the steering committee meet? Staff responded that has not yet been established but it is thought the first meeting of the steering committee would be in September 2013.
- Will the meetings be open to members of the public? Staff responded they would be open to the public and subject to the Brown Act.

Chair Cox moved and Commissioner Graef seconded a motion to nominate Vice-Chair Werner as the Planning Commission representative on the Marinship Steering Committee. The motion passed 4-0.

#### Staff Communications

• During Council's May 21<sup>st</sup> discussion on parklets along Bridgeway south of Princess Street it was apparent the Council is interested in a pilot program. Therefore the approval process involves an Encroachment Permit, which can be issued by the Community Development Director, rather than an Encroachment Agreement issued by the City Council. The Council directed the applicant, Mike Monsef, to submit an application for an Encroachment Permit for review by the Community Development Director. Mr. Monsef also said he envisioned the restaurant tables currently located immediately adjacent to the building would be transferred out into the parklet rather than new tables added. Council also directed the Historic Landmarks Board to provide advice to the Community Development Director. The Director would also like to have the advice of the Planning Commission. A joint meeting of the Planning Commission and the HLB will be scheduled after an application is received so both bodies can give design

input. The Council wishes to have a follow-up review of the parklet in March 2014.

 Today's Marinscope contains an article on the multi-family standards that will come before the Planning Commission on June 12, 2013.

# **Planning Commission Communications**

• Commissioner Graef will not attend the next Planning Commission meeting on June 12, 2013.

# Adjournment

Vice-Chair Werner moved and Commissioner Keegin seconded a motion to adjourn the meeting. The motion passed 4-0.

The meeting was adjourned at 8:23 p.m.

Submitted by

Jeremy Graves, AICP

**Community Development Director** 

Approved by Joan Cox

Chair

I:\CDD\Plan Comm\Minutes\2013\05-29-Approved.doc