SAUSALITO PLANNING COMMISSION
Wednesday, February 20, 2013
Draft 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 Lilly Schinsing, 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

None

Public Hearings

Declarations of Planning Commissioner Public Contacts

None.

1. **CUP/DR 97-03, Conditional Use Permit, Design Review Permit, California Department of Transportation, Rodeo and Highway 101.** Amendments to an existing Design Review Permit and Conditional Use Permit (CUP/DR 97-03) to replace three antennae and associated equipment on an existing PG&E utility pole and add equipment cabinets in an existing underground vault within an existing lease area at an existing wireless communications facility at Rodeo and Highway 101 within a portion of California Department of Transportation Highway 101 right-of-way. Continued from the January 9, 2013 Planning Commission meeting.

The continued public hearing was re-opened.

Associate Planner Schinsing presented the Staff Report.

- Late correspondence received from Nancy Osborn and Seth Rubin was forwarded to the Planning Commission.

Commission questions and comments to staff:

- Could any interested party set up their own measuring apparatus if they choose? *Staff responded yes, as long as that party has the permission of the property owner.*
- Did the late correspondence suggest that the prior approval require a drip irrigation system? *Staff responded there was a condition in the prior approval that required certain landscaping. Staff has asked the applicant to document that they have installed the landscaping per the Conditions of Approval. If they have not then the Community Development Director has the authority to require them to do so.*
- The late correspondence suggested that radiation warning signs be installed at eye level rather than high up on the pole. *Staff responded the FCC dictates the placement of the warning signs.*
- The applicant has done next to nothing with respect to the landscaping at the project site. How much authority does the City have over this site since it is Caltrans property, and should Caltrans or the City be monitoring the landscape? *Staff responded since Caltrans is the property owner and they have authorized Sprint to submit an application on their property they are agreeing to the Planning Commission's conditions.*
- So Caltrans is deferring to the Planning Commission's administration of this application? *Staff responded they are, but it would be difficult to go to Caltrans with a notice of code enforcement action to fix the landscaping on their property. The City's best avenue would be to tell Sprint they need to meet the conditions of their approval.*
- In the past the City has required a bond for landscape work so there is some hammer to hold over the applicant to do the required work. *Staff responded the bond question is different for public and private property. It is much more difficult to obtain bonds for work on private property than for work in the public right-of-way. The City's best approach is to make clear to the applicant how seriously it takes the landscape condition and that if they do not do it their permit could be revoked, which is a very heavy hammer.*

Staff comment:

- The Zoning Ordinance requires a performance agreement, which is in the draft Conditions of Approval. A landscape performance and maintenance commitment can be included in that performance agreement.

The public testimony period was opened.

Presentation was made by David Alameda of Sprint, the applicant.

- With regard to the Commission's landscaping concerns, they do not object to adding a landscape performance and maintenance commitment to the performance condition and also working with the Building Division to ensure they have the old landscaping design included in the plan so it would get done during the building permit process as well.

Commission questions to Mr. Alameda:

- Are you aware of an FCC height requirement for the signage relating to the property? *Mr. Alameda responded yes, the FCC dictates where and at what height they must place the signs.*
- Does Sprint have flexibility regarding the height of where the antennae components are positioned? *Mr. Alameda responded they would like to keep the antennae where they are, otherwise they lose signal the lower they go.*
- Do you have an issue with a condition being added to the resolution that the remote radio units must be at or above 8 feet above the finished grade? *Mr. Alameda responded he has no issues.*

Nancy Osborn, Kendall Court, indicated the following:

- The applicant should be concerned that there is such wide-open access to the site with no fencing or way to keep people from walking near the equipment and antennae.

The public testimony period was closed.

Amendments to the Conditions of Approval:

- Remote radio units shall be at or above 8 feet above the finished grade
- A landscaping performance and maintenance commitment shall be added to the performance agreement.

Commission comments:

- Other than the modifications to the Conditions of Approval the Planning Commission is preempted from other action by the federal statutes that supersede local control.
- The Commission is sympathetic to Mrs. Osborn and others distressed at the supremacy that is being wielded here on the part of the federal government.
- The Commission is satisfied that the amount of emissions has been dealt with and seems to be within limits that are federally sanctioned.

Commissioner Keegin moved and Commissioner Graef seconded a motion to approve amendments to an existing Design Review Permit and Conditional Use Permit for Rodeo and Highway 101 subject to the amended Conditions of Approval. The motion passed 4-0.

The public hearing was closed.

2. **CUP 12-178, Conditional Use Permit, Sausalito-Marin City School District, 630 Nevada Street.** Review of the conditions of approval for Conditional Use Permit CUP 12-178 for Robin's Nest Preschool, which serves 45 preschool age children at 630 Nevada Street (APN 064-332-01). Robin's Nest was granted a Conditional Use Permit to operate their preschool on July 25, 2012. Pursuant to Condition of Approval 4 in Resolution No. 2012-21, the Planning Commission must review the conditions of approval at a noticed public hearing six months after the commencement of day care center operations.

The public hearing was opened.

Associate Planner Schinsing presented the Staff Report.

The public testimony period was opened.

Presentation was made by Julie Havel, Director of Robin's Nest, the applicant.

Commission comments to Ms. Havel:

- The Staff Report indicates there was an understanding that the Building Permit was under the jurisdiction of the Division of the State Architect (DSA) and that Robin's Nest has a permit from DSA. *Ms. Havel responded that she is not aware of a permit from DSA.*
- Improvements being constructed without a permit are what brought this application to the Planning Commission in the first place. This was an issue since July, and so for the applicant to now say do not talk to us, talk to the school district, we did not need to get a permit, is cavalier. *Ms. Havel responded most of the improvements made to the building were made by the School District. Robin's Nest has opened up eight sites and has never had to do any kind of use permit, building permit or signage permit, so this is all new. They are trying to comply and will comply.*
- When improvements are constructed in any city it is the applicant's obligation to gain an understanding of what the requirements are and the Planning Commission was clear back in July about what they are.

(Inaudible name), San Rafael, indicated the following:

- He is a friend of the Robin's Nest's owner and a retired educator.
- Robin's Nest has improved the site; it is no longer an eye sore. They provide a service to the community. If this matter cannot be resolved the community would lose a great site.

Commission comment:

- The City is obligated to ensure that improvements are constructed according to the zoning and building regulations. If an improvement is not properly constructed and a child is harmed it would not only be the owner's liability but also the City's for not insisting its regulations be carried out. This is a great project, which is why the Planning Commission was sympathetic to it in July. Nevertheless there are certain safety measures that must be carried out appropriately. It is not within the Commission's purview or even its interest to waive building code requirements.

Staff comment:

- Staff has been very flexible with this applicant and asks that if in fact Robin's Nest is under the jurisdiction of the School District that they provide the City with evidence of that and show they have complied with it.

Lorraine Brady indicated the following:

- She is Robin's Nest's business director.
- If the School District made the improvements she is not sure why they did not have the jurisdiction to do that.

Commission comment:

- Any improvements made by a school district go through the Division of the State Architect. It is either under the City's jurisdiction, in which case Robin's Nest must apply for a permit, or it is under DSA, in which case Robin's Nest must provide evidence they have complied with DSA, one or the other. There has to be some oversight of these improvements.

The public testimony period was closed.

Commission comments:

- As much as the Commission likes what is being done at Robin's Nest and how good it is for the community, 30 days in which to show the City the paperwork from DSA or apply for a retroactive permit from the City is generous at best because they have had six months to do it.
- The Planning Commission and staff would like to see a parking proposal.
- Unless the School District can prove they have complied with the same requirements on this building as a tenant that they would have to comply with for their own modifications on a school site the City has potential liability.
- If the applicant applies for a retroactive permit it means providing drawings showing what improvements were done and having those drawings checked through plan check and go through the normal process, which is hefty requirement, but one that any other business would have to go through.
- The signage needs to be unified. A plan should be designed with drawings to show where the signs go so an evaluation can be made and a permit issued. The Commission is in favor of good, clear, understandable signage that complies with the local regulations.
- Parking spaces certainly could be marked on the pavement; it is done all the time.

Commission question to staff:

- Can the applicant put up a temporary sign pending their financial ability to apply for official signage? *Staff responded the sign regulations allow for a temporary sign for 45 days, however the banner sign that was up is the temporary sign and was up for more than 45 days, so the applicant has exhausted the temporary sign option.*

No action was taken.

The public hearing was closed.

Old Business

None.

New Business

3. **Prioritized Project List – FY 2013-14.** Suggestions for FY 2013-14 Prioritized Project List.

Community Development Director Graves presented the Staff Report.

4. **Neighborhood Outreach Program for Guardrails.** The Community Development Department and Department of Public Works procedures for neighborhood outreach regarding vehicular traffic safety guardrails.

Community Development Director Graves presented the Staff Report.

Staff Communications

- At the City Council March 5, 2013 meeting Staff will provide a status reports on the Single-family Standards Program and on the Machine Shop.

Adjournment

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

The meeting was adjourned at 7:42 p.m.

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Submitted by	Approved by
Jeremy Graves, AICP	Joan Cox
Community Development Director	Chair

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