



THE CITY OF  
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City Manager  
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# Planning Commission Meeting

Location: Novato City Hall, 901 Sherman Avenue

August 6, 2018

## MINUTES

**Present:** Justin Derby, Vice Chair  
Dan Dawson  
David Gabriel  
Peter Tiernan  
Susan Wernick

**Absent:** None

**Staff Present:** Steve Marshall, Planning Manager  
Brett Walker, Senior Planner

### CALL TO ORDER / PLEDGE OF ALLEGIANCE / ROLL CALL

### APPROVAL OF FINAL AGENDA:

M/s: Tiernan/Wernick to approve final agenda. Motion passed 5-0 (Ayes: Derby, Dawson, Gabriel, Wernick, and Tiernan).

**PUBLIC COMMENT:** None

### CONSENT CALENDAR:

#### 1. APPROVAL OF PC MINUTES OF MARCH 19, 2018

M/s: Wernick/Dawson to approve minutes of March 19, 2018. Motion passed 5-0 (Ayes: Derby, Dawson, Gabriel, Wernick, and Tiernan).

#### 2. APPROVAL OF PC MINUTES OF MAY 21, 2018

M/s: Tiernan/Wernick to approve minutes of May 21, 2018. Motion passed 5-0 (Ayes: Derby, Dawson, Gabriel, Wernick, and Tiernan).

#### 3. APPROVAL OF PC MINUTES OF JUNE 18, 2018

M/s: Tiernan/Wernick to approve minutes of June 18, 2018. Motion passed 4-0-1 (Ayes: Derby, Dawson, Wernick, and Tiernan; Abstain Gabriel).

**CONTINUED ITEMS:** None

**NEW ITEMS:**

- 4. PUBLIC HEARING AND POSSIBLE ACTION REGARDING ADOPTION OF A RESOLUTION REPORTING TO THE CITY COUNCIL THAT PARTIALLY VACATING A WAIVER OF VEHICULAR ACCESS BETWEEN 764 EUCALYPTUS AVE. AND GUM TREE CT. IS CONSISTENT WITH THE NOVATO GENERAL PLAN; APN 132-211-59; 764 EUCALYPTUS AVE.**

**Hold a public hearing and possibly adopt a resolution reporting to the City Council that the proposed partial vacation of a waiver of vehicular access at 764 Eucalyptus Avenue is consistent with the Novato General Plan.**

Senior Planner Walker presented the staff report.

Commissioner Tiernan stated that he made a site visit. Commissioner Wernick stated that she made a site visit and also spoke with the applicant during her visit. Commissioner Derby stated that he visited the site and spoke with a member of the public.

Commissioner Dawson asked about the reason for the waiver of vehicular access.

Senior Planner Walker replied the waiver was recorded with the parcel map creating the subject property. The file records for the parcel map provide no reason for the waiver – nothing is stated in the findings.

Commissioner Tiernan asked if the City owns the strip of land that is landscaped in front of the house.

Senior Planner Walker stated that Parcel “A” is held by the City.

Commissioner Tiernan stated the City-owned area is well landscaped and asked if the City is liable for the trees.

Senior Planner Walker advised the Novato Municipal Code assigns maintenance responsibility to adjacent property owners.

Commissioner Tiernan stated it appears that something is missing from the packet and commented the map shows a gap or break where the driveway would be located

Senior Planner Walker referenced the draft resolution with the legal description and exhibit showing the area to be vacated.

Commissioner Gabriel asked about the fiscal impact if any, and why are they doing this. How come we can't do a lot line adjustment instead of this?

Senior Planner Walker responded there is no fiscal impact – the applicant is covering the cost of

staff time and materials to address the request. Advised a lot line adjustment is not the procedure used to vacate a waiver of vehicular access.

Commissioner Wernick asked if the waiver of vehicular access didn't exist, what would be needed to install the proposed parking area.

Senior Planner Walker responded an encroachment permit would be required.

Vice Chair Derby stated that he saw some pavers installed in the public property.

Senior Planner Walker responded the applicant has been performing some landscape work and the matter was being reviewed by code enforcement staff.

Vice Chair Derby said it looked like the driveway was already set-up on public property.

Commissioner Wernick asked if the redwood trees are considered heritage trees and if they are native or were planted by someone.

Senior Planner Walker responded the trees appear to be larger than 24-inches in diameter (heritage tree size) and a permit is required to remove or prune these trees.

Vice Chair Derby stated if this was a larger development if the City would require additional street width and curb, gutter, and sidewalk.

Vice Chair Derby asked if there is parking on Eucalyptus Ave. and if the on-street parking is adequate.

Vice Chair Derby opened up the public comment portion of the meeting and asked the applicant, Danny Fred, to make a presentation.

Danny Fred described the property, the redwood trees, and his plans for additional parking. Mr. Fred also explained the history of code enforcement at the site, the improvements he made to the house, and the reason for the tractor at the house.

Vice Chair Derby, Commissioner Wernick, and Commissioner Tiernan asked questions of Mr. Fred regarding use of the driveway, thoughts on expanding the existing garage, and parking availability on Eucalyptus Ave.

Len Rifkind, attorney, stated he is representing Dr. Deborah Albin. He stated that Dr. Albin lives across the street from Mr. Fred's residence. Mr. Rifkind presented a PowerPoint describing points of opposition to vacating the waiver of vehicular access.

Commissioner Wernick asked Mr. Rifkind if Dr. Albin's concerns are aesthetics, noise, or safety?

Mr. Rifkind stated all of those. The totality of circumstances. Noted concerns about fire safety and emergency access, as well as noise and traffic.

Robert Danziger stated that he made several complaints about work being conducted at Mr. Fred's property. He concurred with the points of opposition raised by the previous speaker, Mr. Rifkind.

Ed Fish stated he has lived on Gum Tree Court a long time and is concerned with housing values and has aesthetic concerns. He is concerned that RV parking could occur on the driveway assuming Mr. Fred sold the property.

Vice Chair Derby closed the public comment portion of the meeting.

Commissioner Tiernan asked a question regarding additional structures and covered parking.

Planning Manager Marshall stated the Planning Commission is tasked with making a report to the City Council regarding the proposal's consistency with the General Plan.

Commissioner Tiernan asked about conditioning the proposed vacation to limit the types of vehicles that can be stored in the side yard area.

Planning Manager Marshall responded he was uncertain whether the request at issue could be conditioned. He advised the Commission it could recommend the City Council consider applying conditions restricting the types of vehicles that could use a future driveway.

Commissioner Dawson stated that many of these issues are beyond a General Plan consistency review. He is not seeing any inconsistencies.

Commissioner Wernick stated the neighbors complained about on-street parking. The applicant's request would allow for additional off-street parking. She suggested that conditions be added regarding the types of vehicles parked on-site. She doesn't see any inconsistencies with the General Plan.

Commissioner Gabriel stated that adding parking is a good thing.

Vice Chair Derby stated the landscaping is beautiful and spoke regarding his experience as a home builder and City requirements for home orientation and street frontages. He stated a concern that this is going against the original intention of the neighborhood design. He is leaning towards a no vote.

Commissioner Gabriel asked if they can come to a consensus regarding conditioning the approval regarding limits on parking in that area.

Commissioner Tiernan commented the City Attorney would need to provide guidance regarding conditioning the request.

Planning Manager Marshall suggested including a recommendation on applying restrictions, which could be considered by the City Council with legal guidance from the City Attorney.

M/s: Dawson/Gabriel to adopt the resolution reporting that vacating the waiver of vehicular access is consistent with the Novato General plan and recommending the City Council consider applying conditions regarding the parking of RVs, boats, non-operating vehicles, and similar items on the side-yard driveway.

The Commission discussed the motion and potential conditions.

Planning Manager Marshall referenced a portion of the Zoning Code regarding existing parking restrictions in residential areas.

Motion passed: 3-2 (Ayes: Dawson, Wernick, and Gabriel; Nays: Tiernan and Derby).

**GENERAL BUSINESS:** None

**UPCOMING AGENDAS AND QUORUMS:** Planning Manager Marshall discussed future meeting schedules.

**ADJOURNMENT:** Meeting adjourned at 8:45 P.M.