

**TOWN OF SAN ANSELMO  
PLANNING COMMISSION STAFF REPORT**

**For the meeting February 4, 2013**

**Agenda Item D-4**

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**Project Address:**

711-715 Sir Francis Drake Boulevard  
San Anselmo, CA, 94960  
APN: 006-083-08

**Case No.**

UP-1301, DR-1301

**Property Owner:**

Ford Greene  
711 Sir Francis Drake Boulevard  
San Anselmo, CA, 94960

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**Request**

An after-the-fact conditional use permit for a residential use in the Limited Commercial (C-L) zoning district and design review for a shed/wall along the southern property line at 711-715 Sir Francis Drake Boulevard, San Anselmo, APN: 006-083-08.

**Recommendations**

1. Staff recommends approval of the after-the-fact conditional use permit application for a residential use in the lowest level of the building at 711 Sir Francis Drake Boulevard within the C-L zoning district.
2. Staff recommends denial of the design review application for a 12 to 19 foot high shed/wall at 711-715 Sir Francis Drake Boulevard (Code: 8 feet for walls and 30 feet for sheds).

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**I. PROJECT SUMMARY**

**Environmental Determination**

Categorically Exempt: Section 15303(a) – New Construction or the Conversion of Small Structures.

## Authority

San Anselmo Municipal Code; Article 13-Use Permit, Article 15-Design Review.

## Timing

A determination must be made within 60 days of the project being deemed complete which is March 26, 2013.

## Previous Action

November 19, 2012 An appeal of an administrative decision by the Interim Planning Director regarding the existence of a residential use in the lowest level of the building was continued to February 4, 2013.

An after-the-fact conditional use permit for a residential use in the Limited Commercial (C-L) zoning district was withdrawn.

An after-the-fact height variance for a 14-foot high fence was denied.

August 23, 2005 Town Council approved Resolution No. 3738 granting the appeal and overturning the approval by the Planning Commission of two sign variances.

## II. PROJECT ANALYSIS

### Existing and Proposed Conditions

	<b>Existing</b>	<b>Proposed</b>	<b>Code</b>
<b>Lot Size (sq. ft.)</b>	10,000	Same	NA
<b>Floor Area (sq. ft.)</b>	<b>Total 4,840</b>	<b>Total 4,906</b>	10,000
Level 1 (unpermitted residential)	1,330	1,330	
Level 2 (commercial)	1,700	1,700	
Level 3 (permitted residential)	1,810	1,810	
Shed/Wall	0	±66	
<b>Garage(sq. ft.)</b>	800	800	NA
<b>Floor Area Ratio</b>	48.4%	49.1%	100%
<b>On-Site Parking</b>	<b>Total 9</b>	<b>Total 9</b>	<b>Total 9</b>
	Garage 3	Garage 3	
	Uncovered 6	Uncovered 6	

	<b>Existing</b>	<b>Proposed</b>	<b>Code</b>
<b>Stories</b>			
Main Building	3 (legal nonconforming)	3 (legal nonconforming)	2
Barn	1	1	2
Garage	1	1	2
Shed/Wall	NA	1	2
<b>Height (feet)</b>			
Main Building	30	30	30
Barn	20	20	30
Garage	16	16	30
Shed/Wall	NA	12-19	8 feet for walls and 30 feet for sheds
<b>Zoning</b>	C-L	Same	NA
<b>Flood Zone</b>	X (not a flood zone)	Same	NA

## **Project Description**

### **Conditional Use Permit for Residential Use**

The request is for an after-the-fact conditional use permit for a residential use in the Limited Commercial (C-L) zoning district. The San Anselmo Municipal Code (SAMC) allows a residential single family attached use within the C-L district with a conditional use permit. The purpose of a conditional use permit is to allow for the review of a specific use to ensure that it is compatible with surrounding land uses and, if necessary, to impose conditions ensuring the use complies with the intent of the SAMC.

The main building on the parcel was constructed in 1905 and is comprised of three levels. The top floor (level 3) contains two residential units, each with one bedroom. The middle floor (level 2) contains two commercial spaces totaling approximately 1,700 square feet. The lowest level (level 1) contains a 1,330 square foot residential use, which is the subject of the after-the-fact conditional use permit application. The residential units on level 3 and the commercial spaces on level 2 are accessed from Sir Francis Drake Boulevard. Both levels also have balconies at the rear of the building. The residential unit on level 1 can only be accessed from the rear of the building via the driveway and backyard.

The residential unit on the lowest level contains a great room with dining, living and office areas, a bathroom, kitchen and sleeping area (Sheet A2.1). Town records show that this level was originally a bakery. No changes are proposed to the unit as part of the after-the-fact conditional use permit application. However, if the conditional use permit is approved, an after-the-fact building permit application will need to be submitted and the work completed to bring the unit into compliance with current building and fire codes.

An identical after-the-fact use permit was reviewed by the Planning Commission on November 19, 2012. That application was withdrawn by the applicant because the California Permit Streamlining Act time limit had expired. Subsequently, the applicant submitted another after-the-fact use permit application along with a design review application for a shed/wall on January 10, 2013.

### Shed/Wall

The owner proposes a shed/wall abutting the southern property line with a total area of 66 square feet and a height ranging from 12 feet to 19 feet (Sheet A3.3). The proposed shed/wall would be located between the two adjacent buildings on the neighboring parcels to the south and west. The south side of the shed wall, facing Bridge Avenue, and the north side, facing the applicant's back yard, will be planted with vegetation. Though it is not clear from the materials submitted, it is staff's understanding that the proposed shed/wall is being proposed as an alternative to the condition required by the Planning Commission on November 19, 2012, that the applicant either remove the fence or modify it to a maximum height of 6 feet of solid material with 2 feet of lattice.

The western section of the shed/wall, when viewed from the south, is proposed to be 1 foot 3 inches in depth and approximately 16 feet in width and 12 feet 6 inches in height. The eastern section of the shed/wall is proposed to be from 2 to 4.5 feet in depth, approximately 14 feet in width and 12 to 19 feet in height. The shed roofs on the structure vary in the direction they slope. A window is proposed facing the yard of the parcel and two doors are proposed, one providing access to the shed/wall from the backyard of the parcel and the other providing access to the adjacent parcel. Building Department staff has commented that the California Building Code does not allow doors to be located on the property line. As part of the shed/wall proposal, the existing 14 foot high fence, which was constructed without Building Division or Planning Department approval and was unanimously denied a height variance by the Planning Commission on November 19, 2012, is proposed to be removed.

Staff does not consider the western section of the proposed structure, adjacent to the southern wall of the existing barn, to be a shed. Based on Sheet A3.3 of the plan set, the southern wall of the structure adjacent to the barn is approximately 16 feet long and 12 feet high when viewed from the south. The distance between the existing exterior wall of the barn and the proposed wall structure is approximately 1 foot 3 inches and 16 feet in length for a total area of approximately 22 square feet. It is not clear if this area of the structure will have a flat or sloped roof. Although the structure may meet the literal definition of a shed<sup>(1)</sup>, given its proposed location and that it is designed to be only 1 foot 3 inches in depth and approximately 16 feet in length, staff has made the determination that this section of the structure is a wall not a shed.

<sup>1</sup>Shed: A slight or temporary structure built to shade or shelter something; a structure often open in front; an outbuilding; a hut; as, a wagon shed; a wood shed. <http://www.webster-dictionary.net/definition/shed>.

The San Anselmo Municipal Code (SAMC) allows fences, privacy walls, solid opaque screen plantings, including supporting structures up to up to 6 feet in height with a 2' lattice top (**for a total height of 8 feet**) above the ground surface. The proposed wall is approximately 12 feet in height and therefore does not meet the requirements of the (SAMC).

### **Response to Public Notice**

A letter of support of the existing fence height was submitted to the Town on Tuesday, January 29, 2013, in response to the public notice sent to all property owners and tenants within 300 feet of the project site (Attachment 1).

### **III. REQUIRED FINDINGS**

#### **Use Permit for a Residential Use in a Limited Commercial (C-L) Zone**

To approve the Use Permit application, the Planning Commission must make the following finding:

1. *The establishment, maintenance, or operation of the use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of the proposed use, or be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the Town.*

The continued use of the residential unit on the lowest level of the building will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood. The 1,330 square foot studio unit located at the rear of the building, below street level, is not visible from the street or adjacent properties. The front doors and windows of the unit face the backyard. The only other wall of the unit which contains windows faces a windowless wall of the adjacent two-story building at 4 Bridge Avenue. Continuation of the residential use will also not be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the Town. The lower residential unit has been occupied by the current property owner since approximately 1990 and there have been no complaints that its occupation has been detrimental to the neighborhood or the Town. If the after-the-fact conditional use permit is approved, an after-the-fact building permit will need to be applied for, obtained, and the work completed to the satisfaction of the Building Division to bring the level 1 unit into compliance with current building and fire code requirements.

Staff is able to make this finding for a conditional use permit for a residential use in the C-L zone

## Design Review for Shed/Wall

To approve the Design Review application, the Planning Commission must make each of the following findings:

1. *The project will not unreasonably impair access to light and air of structures on neighboring properties.*

The shed/wall will not unreasonably impair access to light on neighboring properties, nor will it impair access to air. In fact, the applicant advocates that the green shed/wall will improve the air quality to the surrounding properties.

2. *The project will not unreasonably affect the privacy of neighboring properties including not unreasonably affecting such privacy by the placement of windows, skylights and decks.*

The proposed shed/wall will not unreasonably affect the privacy of neighboring properties. The proposed shed/wall will provide privacy screening for the property at 711-715 Sir Francis Drake Boulevard.

3. *The project will be of a bulk, mass and design that complements the existing character of the surrounding neighborhood.*

The proposed shed/wall **will not** be of a bulk, mass or design that complements the character of the surrounding neighborhood. Its appearance from the street (Bridge Avenue) will be of a large 12 to 19 foot high by 29 feet long vegetated wall. Though the plantings proposed for the wall appear to be attractive, it is difficult to determine how the wall will look from the street over the long term. Maintenance of the plantings will be critical and may be difficult given the complexity of keeping the plantings healthy and the proximity of the wall to the applicants' residence. An access easement will also need to be acquired from 703-707 Sir Francis Drake Boulevard (006-830-008) to maintain the vegetated wall. As previously discussed, staff believes that the approximately 16 foot long western section of the structure is a wall and not a shed and that the wall does not conform to the SAMC. Staff is not able to make the finding that the design of the structure complements the existing character of the surrounding neighborhood.

4. *The project will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood.*

Staff is not able to make this finding given the limited amount of information provided and the many unique aspects of the proposed structure. The Building

Division has reviewed the application and has provided the following comments in regards to this finding:

- a. There is insufficient information provided to determine if this shed/wall can be constructed in a manor that will not adversely affect the health or safety of persons residing or working in the neighborhood. Sufficient sections, dimensions and details need to be provided so staff can understand how the shed/wall is to be constructed.
- b. The location of the property line needs to be shown in the wall detail. The V ditch needs to be totally within the property of 711-715 Sir Francis Drake Boulevard. This could result in the shed/wall being less than 18" wide at the barn. Based on the information submitted, it appears the western segment adjacent to the barn cannot be constructed.
- c. Because of the unusual layout, configuration and effect on adjacent structures, the foundation and the shed/wall must be designed by a licensed engineer. The structural analysis must include the effect on the existing barn.
- d. An arborist report must be provided substantiating that the foundation of the shed/wall structure and green wall drain ditch as proposed will not adversely affect the tree and therefore pose a safety hazard.

#### **IV. CONDITIONS OF APPROVAL**

If the Planning Commission approves the after-the-fact conditional use permit and denies the design review application for the shed/wall, as recommended by staff, then the following conditions shall apply:

1. Planning Commission approval is based on the plans and materials titled 711-715 Sir Francis Drake Boulevard, prepared by Danadjeeva Hansen Architects, Inc. date stamped received by the San Anselmo Planning Department on January 10, 2013.
2. All conditions of approval shall be printed at the top of sheet 1 of the building permit drawings.
3. No later than 3 months after approval of the after-the-fact conditional use permit, a complete building permit application to legalize or remove the existing residential unit on level 1 must be submitted to the Town. The building permit application to legalize the unit must show that it is in compliance with current building and fire code requirements. Once the building permit is issued the owner shall start work and continue in a timely manner until project completion.

Please contact the San Anselmo Building Department at 415-258-4616 or [townofsananselmo.org/building](http://townofsananselmo.org/building) for requirements and further information.

4. No later than 3 months after denial of the design review application for the shed/wall, the owner must either remove the fence along the southern property line or submit a complete building permit application to the Town showing the fence modified to a maximum height of 6 feet of solid material with 2 feet of lattice. Once the building permit is issued the owner shall commence work and continue in a timely manner until project completion.
5. The property owner shall indemnify and hold harmless the Town of San Anselmo and its officers and/or employees in the event of any legal action related to or arising from the granting of this approval and shall cooperate with the Town in the defense of any such action, and shall indemnify the Town for any award of damages and/or attorneys' fees and associated costs that may result.

Prepared By:

Phil Boyle  
Senior Planner

Attachments:

1. Letter of support, dated January 29, 2013
2. Application and Supplemental Questionnaires
3. Plans

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