

TOWN OF SAN ANSELMO

Minutes of the Town Council Meeting of January 28, 1992

8:00 p.m.

1. CALL TO ORDER.

Mayor Zaharoff convened the regular meeting, with Councilmembers Chignell, Colteaux, Kanis and Walsh present.

2. OPEN TIME FOR PUBLIC EXPRESSION.

Robert Alvarado, 49 Austin Avenue, said the garbage rates in Ross and Novato are lower than San Anselmo, and Ross has received garbage containers and gets their clippings picked up every two weeks, while Novato has unlimited garden clippings pickup.

Sarah Nome, 77 Alder Avenue, said there was an item on the consent agenda at the last meeting that overturned the intent of an election, it should not have been on the consent agenda, and when Walsh asked that it be removed from the consent agenda, the mayor would not allow it. Zaharoff responded that the item had been pulled from the consent agenda, and discussed and acted on separately.

Frank Shellis, 50 Austin Avenue, expressed his disgust regarding garbage, that the Council was not informed, the public is really being taken in San Anselmo, and there will be a symposium on related environmental issues this Sunday.

M/S, Chignell/Walsh, to move up item #10 to follow item #3. Motion failed by the following vote:

AYES: Chignell, Walsh

NOES: Colteaux, Kanis, Zaharoff

3. CONSENT AGENDA.

- (a) Approve minutes: January 14, 1992.
- (b) Acknowledge and file financial reports through December 31, 1991.
- (c) Authorize additional appropriation of \$14,050 from Equipment Fund for purchase of truck of Parks program.
- (d) Announce vacancy on the Solid Waste and Recycling Advisory Committee (1 seat).
- (e) Approve resolution supporting conformance with the Americans with Disabilities Act.
- (f) Acknowledge and file report on cost of garbage rate analysis.
- (g) Acknowledge and file sidewalk repairs.

Items (c) and (f) were pulled from the consent agenda.

M/S, Chignell/Walsh, to approve the consent agenda with the exception of items (c) and (f). Motion passed unanimously.

- (c) Authorize additional appropriation of \$14,050 from Equipment Fund for purchase of truck of Parks program.

Parks Superintendent Nyberg explained that the proposal was for a pickup truck with a dump attachment.

Councilmembers asked whether Street Maintenance's dump truck could be shared with Parks, expressed concern about addressing the issue outside the budget process, and whether a less costly used truck could be purchased.

Town Administrator Bonander said that the truck that Parks had been using is 17 years old, its condition is beyond repair, and Parks employees have been using their personal trucks on Town business.

The Council requested more information on the reasons for purchasing this \$18,000 truck with a dump bed, and whether a used truck may be available.

M/S, Chignell/Kanis, to continue the item to the next regular meeting. Motion passed unanimously.

(f) Acknowledge and file report on cost of garbage rate analysis.

It was the consensus of the Council to get proposals on the cost of performing an independent analysis of the rates, with the intent of conducting a rate analysis before the fall, when a request for rate increase is expected from the garbage company. Bonander will draft a request for proposals, and make a recommendation to the Council of the parameters of the rate analysis.

4. PUBLIC HEARING ON STREET NAME CHANGE PROPOSAL: 1330 SIR FRANCIS DRAKE BOULEVARD, UNIT NUMBERS 1 THROUGH 15 (KNOWN AS THE WILLOW GLEN SUBDIVISION, A/P NOS. 5-311-17) TO BE CHANGED TO ASPEN COURT, NOS. 1 THROUGH 15.

The public hearing was opened. The following persons spoke in favor of the name change: The owner of Unit #10 and Richard Maxey, owner of Unit #8.

M/S, Chignell/Walsh, to approve the resolution calling for the street name change as proposed. Motion passed unanimously.

5. CONTINUED CONSIDERATION OF APPEAL OF APPLICATION FOR AN OVERNIGHT PARKING PERMIT, 138 WOODSIDE DRIVE, BY RICHARD ECKERSDORFF.

Staff reported that the two-car garage is six inches less wide than the standard width.

Chignell stated that he felt the applicant had a justified hardship related to his occupation as a physician.

M/S, Colteaux/Kanis, to approve the staff recommendation to deny the appeal. Motion passed by the following vote:

AYES: Colteaux, Kanis, Zaharoff

NOES: Chignell, Walsh

6. APPEAL OF A DECISION BY THE PLANNING COMMISSION APPROVING A DESIGN REVIEW REQUEST FOR PROPERTY LOCATED AT 379 OAK AVENUE. THE APPLICANT OF THE PROJECT, THEODORE POSTHUMA, PROPOSES TO ADD LIVING AREA TO AN EXISTING SINGLE FAMILY DWELLING AND A CARPORT ON PROPERTY LOCATED WITHIN THE R-1C ZONING DISTRICT (DR-9120; A/P7-241-61).

Planning Director Chaney presented the staff report.

Theodore Posthuma, applicant, stated that the addition was not located immediately behind the existing house primarily to avoid removing three large trees, including a maple and walnut, which provide foliage, screening, and privacy from behind. He proposed to build around the hawthorne tree, and noted that the eucalyptus tree provides foliage for the hot tub and deck area.

One of the appellants, an adjacent neighbor, submitted a petition. He said that the proposed house side of 3,700 square feet plus the gazebo is twice as large as homes in the neighborhood, and the General Plan calls for compatibility with other house sizes. She questioned whether the shape of a lot should absolutely dictate the shape of the house. She said that integrating the two buildings is a key issue. The house has been made smaller from prior designs, but the appellants want it smaller and redesigned. The addition as proposed would be higher than her loft. She said she saw no eventuality of screening of her property, and there will not be screening for Oak Avenue.

Jim Cowperthwaite, 141 Oak Avenue, was opposed to the proposed building because it was not in keeping with the homes in the area.

Walt Tamley, So. Oak Avenue, said he goes up Oak Avenue every day, that he has no idea what a 100 foot house will look like, and that the applicant should make a model. He said this site cannot be compared to the Leonard property, which sits back from the road.

Mary Anne Cowperthwaite, 141 Oak Avenue, said the plan looks like two houses.

David Bassit, architect representing Miranda Leonard, said the plan violates Section 11.1 of the General Plan, and submitted photographs which he said intended to show the objection. He said there has already been excavation on the site. Dirt has been pushed against her fence, and the fence is bulging out towards her oleander plantings. No plan of the carport has been submitted, but the carport will be near the Leonard property.

Mark Kirtz, attorney for Miranda Leonard, addressed the definition of "neighborhood" for purposes of compatibility. While 300 feet is considered a neighborhood for noticing purposes, that is not actually the neighborhood for purposes of addressing compatibility. The proposed house is larger than other houses even though the property is less than the size of other properties. Usually a neighborhood is defined by what you can see. The applicant has kept the same design, but just keeps shrinking it; maybe it is because it is too large.

Kathy Sanders, 310 Redwood Road, said the lot is in a sensitive area on Bald Hill, which is visible to Oak Avenue and to the people who walk to the Marin Municipal Water District property; is part of the San Anselmo backdrop they hoped to preserve in the General Plan. An oblong lot does not dictate a long, oblong house. She supporting nestling a portion of the addition behind the existing house at a lesser scale, and wanted to see more incorporation of the existing house so that it is more compatible. the question of two separate garages/carports needs to be resolved, adding that is raises a potential second unit issue.

Richard Posthuma, brother of the applicant, said that if everyone each designed a house, the designs would all be different. The building layout is important to take into consideration and integrate into the design. He said that his brother has been trying to meet the concerns of the neighborhood about the size and design.

Theodore Posthuma, applicant, referred to page four of the appeal, the last paragraph, and said that the other property too had square footage added, and is also a large house. Regarding the excavation permit, he said there was a plum tree he wanted to save, so he excavated it so he could transplant it during the winter months. The dirt

moved is only temporary. The carport is not part of the plan right now. He said that Leonard's views are on the other side of her house. In order to preserve the art deco style of the existing house, he cannot build on top of it. Regarding house sizes on other properties, he said they had greater slopes; the two adjacent properties have been built to their maximum size potential. He said he has made every attempt to reduce the size of the house while preserving the trees; he has eliminated the atrium. He said he enjoys a very particular view of the bay, a four-sided view, in his study, which he wants to preserve.

Walsh said that she found the proposal to be in character with the neighborhood.

Kanis said he said not seen in this redesign the changes he had hoped they would see. He said the house was out of character with the neighborhood, the length is not in character with the rest of the neighborhood. He would be interested in seeing it again with a model. He felt the design was too big, too long, and not in keeping with the character of the neighborhood, and does not meet the General Plan requirements. A redesign could still provide the applicant with a home.

Chignell said that Posthuma has gone through many hearings and expense. The present design does not reflect the compatibility factor. Unless it is continued, he wanted a model or information on visual bulk.

Colteaux said he felt that anything above 3,000 square feet was contrary to the General Plan, and he would not approve anything larger than 3,000 square feet. He said this related to the smaller lots in the area, and the size of structures on smaller lots.

Zaharoff said that as fervently as the applicant felt about the trees, she felt about the General Plan requirement for compatibility with the neighborhood. She said as she drives up Oak Avenue and considers what is the character of the neighborhood and the size of the homes, she noted that the length of the home has alot to do with it. Most homes are like the existing home: 52 feet long. It is hard to say from that standpoint that the design is compatible. Further, the addition is not integrated with the existing home. She said if he did not want to look at a retaining wall and remove trees, she would be more amenable to an addition that integrated the home by building behind the existing home. The only other alternative would be to diminish the square footage of the addition. The choices were to either relocate the addition to the rear of the existing house, or reduce the size of the addition to 3,000 square feet.

Zaharoff proposed that if the applicant agreed, the application could be continued for redesign, and go directly to the Town Council, rather than through the Planning Commission.

Posthuma agreed to the continuance.

M/S, Colteaux/Kanis, to refer the application back to the applicant to be placed on the calendar after the application has been redesigned in response to our comments. Motion passed unanimously.

7. APPEAL OF A DECISION OF THE PLANNING COMMISSION APPROVING A REQUEST FOR A USE PERMIT (U-9106) TO ALLOW A PROPOSED SECOND LIVING UNIT ON PROPERTY LOCATED AT 26 SAIS AVENUE WITHIN THE R-1 ZONING DISTRICT (A/P 6-072-16). THE APPLICANTS FOR THE USE PERMIT ARE MARIO AND EMILIA ORIHUELA.

Planning Director Chaney presented the staff report.

Carl Shapiro, attorney representing the applicant, said that this application meets the zoning standards and has been submitted legally. Parking is not increased by one car by this addition. It is unbelievable that it would be thought to increase traffic, as two cars does not increase the burden on streets and traffic. There are not many houses where a low income unit can be added because of some abstract fears there may be more traffic. He assumed that the Town Council set the number of units allowed in each neighborhood with the knowledge of illegal units.

Shapiro said the crowded nature of Sais and its proximity to Sir Francis Drake Boulevard and shopping lends itself to second units. If the Council agrees with the premise of the second unit ordinance to create low income units, this is an appropriate application. It is not fair to tell Mr. Orihuela he cannot have his second units because others have come ahead of him illegally. The ordinance does not say the units must be spaced throughout the neighborhood. The ordinance implies it is first come, first serve, it they meet the criteria. The Orihuelas have been law abiding and complied with the regulations, and they should not be punished because of illegal units. He said there was an intimation that cars are not the problem, it is the Orihuelas and their children. There is nothing in the law that is against people trying to better themselves. It meets the intent of the second unit ordinance and zoning regulations.

Appellants, 37 Sais, said it is not that he disapproves of children or has anything against Orihuela, but the cars and density on Sais are outrageous. There are too many people on Sais; there is already of excess of 13 units.

Susan Manley, 20 Sais, said a red tag had been placed on the rear building. She said that findings 6 and 7 could not be made, because of excessive noise and other impacts on the neighborhood. She displayed a colored map of illegal units in the neighborhood; there already are three units within 3 percent of the 146 total lots in the Carrigan neighborhood. If this application is approved, her house will be surrounded on three sides by two units. She did not bring up children because she was against children, but two adults plus two children equal four people. Even thought the neighborhood is close to bus stops does not meant that buses will be used. The number of second units adds to the lowering of property values in he area. The Planning Commission staff said five of the seven findings were met. But all findings must be met. There is still a problem of existing illegal second units. There has been little if any action taken to abate second units. San Anselmo has not submitted a current housing element, although it was supposed to have been submitted to the state by July, 1990.

Jean Gordon, appellant, said was remiss in not pursuing second units. If they had, those would have fulfilled the 13 units. There must be at least two illegal units in the carrigan neighborhood. The back of the house at 26 Sais is within four inches of the property line; Mr. Orihuela was stopped by the city in the remodel of the rear house. Regarding the location close to transportation: there is only limited public transportation possibilities in Marin

County. If you double the number of families on a lot, you will double the density. While there is on-site parking on the back of the lot, cars are always parked on the street in front of the house. The original house on her property at 20 Sais was built in 1907-08, before the setback requirements were established. It is not fair for them to be saddled with another second unit because the Planning Commission is not going after illegal units. Regarding on-site parking requirements for two cars, she questioned whether the applicants expect that they will only have one car and no more than one guest ever visiting the second unit. The Town has a noise ordinance, but there is insufficient manpower to enforce it, and she did not want to have to depend on the police to enforce it, when the problem can be avoided by not adding a unit.

Letha Marchetti, 29 Sais, spoke to refute four of the findings. She said one solution might be to direct the Planning Commission to handle old business before new business, that it does not matter in terms of neighborhood impact whether the units are legal or illegal, and the ordinance does not seek to the placement of units.

Phil Murphy, 30 Sais, said their neighborhood had a disproportionate share of legal units, and expressed concern that legal second units could be located so close together. He demonstrated the short distance between his kitchen and the Orihuela's parking area, said that the applicant had run his business and had trucks parked there. He had sympathy for someone who is running his own business. The business has moved, but now he wants rental units. It is an unhealthy mix with cars and trucks, and his unit is close to Orihuela's parking. He failed to see the logic, and found it offensive and discriminatory to locate a large number of second units close to Sir Francis Drake Boulevard. He was sympathetic to their need for greater space, and would support an expansion of the home for expansion of the family instead. It was unpleasant to oppose a neighbor's request, but the construction would bring a permanent change to the neighborhood.

Ann Murphy, 30 Sais, said she stood behind the appeal, her letter, and her husband's statements. Their variance application was supported by the neighborhood. On this application, the parking creates health and safety hazards for her family, there is no way of policing pollution and toxics, there was a close clustering of housing units and poor construction quality, and they have to endure noise. She objected to further exposing residents to noise and other harmful effects of the second unit.

Sarah Home, 77 Alder Avenue, spoke of an illegal second unit in another neighborhood in town, and said word was not getting to the Planning Commission that the units need to be abated.

Ron Silvera, 21 Calumet, supported the appellants and urged the application be denied. He urged the Council to listen to the observations from the people of the Carrigan tract who experience the overburdening of the neighborhood. There needs to be an inventory on the status of second units. He did not believe the a mere filing of an application is a matter of right, that there was a factual basis to deny the application, every citizen should follow the mandate of the law and the Council should take stock of the nature and extent of the problem before adding to it. He suggested the applicant be allowed to expand the existing dwelling to accommodate his family's needs while not overburdening the neighborhood. Transitory needs can be accomplished by expansion, but a second unit is lasting.

Richard Marchetti, 29 Sais Avenue, said their street is a shortcut, especially in the morning. There have been accidents, and the neighbors want something done about traffic and speeding. The neighborhood is in flux, 1/3 to 1/2 of the homes within 300 feet have been added onto. From Madrone to Sais there are 22 children, and it is not that the neighbors are against children. Another family is another automobile on a street that already has traffic problems.

Mario Orihuela, 26 Sais, described how he had saved his money to purchase the property at 26 Sais, and what he had done to try to keep the structure in the rear from collapsing, with advise from the Town. He said he owned a legitimate garden business, and if he caused problems to the neighborhood, he apologized. He wanted to live a happy life with his wife and children, he has never had a problem with the law, and he wanted to be successful to show his children that way of life.

Mr. Orihuela said he will provide a written guarantee that the second unit will only use one space. Regarding noise and traffic, he said his small company is now located in San Rafael, they are a quiet family, and they have one truck and a family car, with his son's car also here temporarily. If his application is denied, it will be very painful. He believed he was doing everything according to the laws, and on that basis he had a right to approval. He did not see how a house can be denied to two people and their children. He was trying to build something positive for his family, and he will obey whatever conditions are placed on him, including keeping the oak tree alive.

It was the consensus of the Council that there was appreciation for the applicant's obeying the law and his hard work, and that it was a difficult situation, but that the testimony from the neighbors was compelling that a second unit would create further traffic, noise and congestion problems for the neighborhood, and that the number of second units allocated to a neighborhood was a maximum number, not necessarily a guaranteed number.

M/S, Colteaux/Walsh, to grant the appeal, based on the inability to make findings 6 and 7. Motion passed unanimously.

8. PUBLIC HEARING ON ADOPTION OF AN ORDINANCE REGULATING TOWING OF VEHICLES.

Due to the lateness of the hour, this item was continued to the next regular meeting.

9. REPORT ON MANAGEMENT LETTER FROM TOWN AUDITOR.

Due to the lateness of the hour, this item was continued to the next regular meeting.

10. UPDATE ON CAPITAL RECONSTRUCTION PROGRAM.

It was the consensus of the Council to send a letter to Supervisor Brown thanking him for his offer of funding assistance for the Sir Francis Drake Boulevard project, and to send out requests for proposals on the project.

11. ORAL REPORT ON UPDATE OF TRANSPORTATION ISSUES.  
(COLTEAUX)

Due to the lateness of the hour, this item was continued to the next regular meeting.

12. COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS, COMMENTS AND DIRECTIONS TO STAFF; STAFF MISCELLANEOUS ITEMS.

The joint Council-Planning Commission meeting scheduled for January 30 was cancelled.

13. ADJOURNMENT.

The meeting was adjourned at 12:15 a.m.

Beth Pollard