

186 The regular meeting of the San Anselmo Planning Commission was called to order by Chairman Harle at 8:00 p.m. on October 20, 1980, in the Town Hall Council Chamber. George Davison and T. J. Robbins present.

1. ROLL CALL

Commissioners Present: Harle, Hayes, McPeak, Ollinger, Peterson,  
Ragan, Signorelli  
Commissioners Absent: None

2. APPROVAL OF MINUTES

September 29, 1980

Item 2A, paragraph 5, change ". . . in tact" to ". . . intact."

Item 2B, first motion, change ". . . finding on the density figures contained in the Town Council version of the ordinance to be no greater . . ." to ". . . finding that the density figures contained in the Town Council version of the ordinance are no greater . . ."

Gay Kagy from the audience added the following to the minutes:

"John Colteaux, attorney and former Town Council member, remarked that there is no slope policy in the proposed ordinance. He felt this was a conflict with the General Plan which has slope policy (1 unit in 10 in areas exceeding 30% slope). He felt an EIR was needed because of this point. Colteaux also suggested the Planning Commission direct Public Works Director Davison to inquire of Town Attorney Hadden Roth whether there is a legal reason for the present distribution of new second unit allocations throughout the town. Davison stated that the original allocations did not cover all areas of town and indicated he was reluctant to ask Hadden Roth. Planning Commission dropped the issue.

Commission agreed to accept Ms. Kagy's correction.

M/S Hayes, Signorelli, to accept the minutes of September 29, 1980, as amended.

Motion carried; Commissioner Ragan abstained.

October 6, 1980

Item 3B, paragraph 9, change ". . . small groups of housing units . . ." to ". . . development of new low income housing . . ."

Item 3B, paragraph 10, change ". . . they will live somewhere else." to ". . . they will have to live somewhere else and consume that same energy."

M/S Hayes, Signorelli, to approve the minutes of October 6, 1980, as corrected.

Motion carried; Commissioners Ollinger and Ragan abstained.

3. OLD BUSINESS

A. V-904 - Kirk E. Heiser, 36 Sunview Avenue, A/P 5-164-19, a six foot rearyard variance and a 9'6" rearyard variance to construct an addition below an existing deck within 14 feet of the 35 foot rear property line and 10'6" of the 84.31 foot rear property line; two foot to four foot rearyard variances to construct a window extension within 18 feet to 16 feet of the 35 foot rear property line; a two foot sideyard variance to construct an addition below an existing deck within six feet of the north side property line; and 7'6" and two foot rearyard variances to construct an open deck within 6'6" and 12 feet of the 84.31 foot rear property line.

Kirk Heiser, applicant, and Jeff Portnoy, neighbor, present.

The Commissioners said they understood Mr. Portnoy's concerns about the visual impact of the additions; however, they are also aware of the hardships of the lot in question.

Commissioner Ragan asked both Mr. Heiser and Mr. Portnoy if they would meet to discuss the application. They agreed to do so.

Commissioner Signorelli felt the visual impact could be lessened with plantings between the properties.

M/S Ragan, Signorelli, to refer V-904 back to the applicant for resubmittal at a meeting which is agreeable to them.

Motion carried: AYES: Harle, Hayes, McPeak, Peterson, Ragan, Signorelli  
NOES: Ollinger

B. Second (Dwelling) Units Resolution, amending the number of units allowed by neighborhood.

Chairman Harle explained to the audience and Commission where the discussion had left off on September 29, 1980.

Commissioner Signorelli said he cannot understand how a second unit should have preference over new development since second units contribute to increased traffic and parking problems too. He thinks the original ploy was to stack allowable second units in the Rosenthal-Prosser Tract so that new projects would not get built. He pointed out that the owners of those undeveloped lands should get an equitable return.

M/S Ollinger, Hayes, that the agenda items, Second Units Resolution and Density Ordinance discussions, be reversed so that the Density Ordinance be heard first.

Motion failed: AYES: Hayes, Ollinger  
NOES: Harle, McPeak, Peterson, Ragan, Signorelli.

George Davison read his memo written to the Commission and dated October 17, 1980, to the audience.

Commissioner Signorelli suggested there be one or two more second units allowed in the Spring Grove area.

Chairman Harle said he does not support the revision as enough study has not been given to change the resolution that was given a lot of thought originally.

Mr. Semler, 72 Oak Knoll Avenue, said new development will be more costly and use more energy than second units in existing homes.

Barbara Tracy, Crescent Road, suggested that if 37 allowable second units in the Rosenthal-Prosser Tract is too high in terms of density, are we obligated to redistribute them to other areas rather than simply subtract them from the total.

Gay Kagy, 280 Redwood Road, read from the 1971 Citizen's Committee on Zoning and Housing Report which included a survey with the findings that equal numbers of second units were found in the hillside areas and lower elevations; 60 percent of the roads are narrow and 40 percent ample; maintenance of the units is better near the residential areas than near the commercial areas of town; there is an average of one car per residential unit; and there are more traffic problems where there are clustered units. Ms. Kagy added that there are many senior citizens who prefer to live on the hills. She suggested that second units be provided in new development projects.

Commissioner Ragan disagreed that senior citizens would rather live on the hills away from shopping and transportation.

Jerome Draper, 295 Los Angeles Boulevard, said he agrees with Chairman Harle. He added that allowing second units is not as great an impact as new houses, as the second units may not necessarily be built.

John Colteaux, 55 Kensington Road, said the Commission has not yet heard from those people who live in the lower elevations and will be having more allowable second units if the resolution is revised. He sees this as a swift little trade-off of some

units in the hills called second units in terms of the Density Ordinance. He stated the Commission cannot establish density as a vested right by shifting second units. Since there is no procedure for this, he said, the people will be down here to haunt the Commission.

Carl Baumsteiger, 1 Monterey Terrace, said he disagrees that this is a trade-off and if it is a general concern then perhaps rather than shifting units from the higher to the lower elevations, we should simply remove them from the total count.

Commissioner Signorelli said he does not want to see any second units eliminated.

Commissioner Hayes said he is inclined to agree with Chairman Harle that maybe this is not the time to take up the second units revision. He said he is not persuaded by the Town Attorney's opinion that if the second unit density is not lowered in the Rosenthal-Prosser Tract then an EIR will be required as we will simply be removing ghost units, to which Commissioner Peterson agreed.

Commissioner McPeak suggested there should be two second units in the Hilldale area allowed in addition to Mr. Davison's proposal and perhaps subtract two from the Sequoia area. He also pointed out that once new developments are begun in the Rosenthal-Prosser Tract, there will be sufficient water for those second units originally allowed by Resolution 1682 unless the number is changed.

M/S McPeak, Peterson, to recommend to the Town Council a temporary moratorium on new second units in those areas where staff proposes revisions, dated July 1, 1980, showing a minus figure until six months after the density ordinance is passed, namely Butterfield, The Alameda, Indian Rock, Rosenthal-Prosser, and Barber.

Mr. Davison said he is confused why Commissioner McPeak feels this is a necessary move as the door will be shut on five areas and it is not fair.

After discussion, Commissioner McPeak withdrew his motion.

M/S McPeak, Peterson, to recommend to the Town Council to revise Resolution 1682, redistributing the allowable number of second units by neighborhood as prepared by staff and dated July 1, 1980.

Motion carried: AYES: McPeak, Peterson, Ragan, Signorelli  
NOES: Harle, Hayes, Ollinger

M/S Hayes, Ollinger, to convey to the Town Council that the approved proposal should not be construed that this action constitutes a substantial offset mitigation of density as contemplated by the Density Ordinance now under consideration.

Motion failed: AYES: Harle, Hayes, Ollinger  
NOES: Peterson, Ragan, Signorelli  
ABSTAIN: McPeak

M/S Ollinger, Ragan, inasmuch as we have the Density Ordinance to consider and should engender an equal amount of time to it; and have already spent time on the Second Unit revision, we should consider the new business items on the agenda first and then come back to the Density Ordinance.

Motion failed: AYES: Ollinger, Ragan, Signorelli  
NOES: Harle, Hayes, McPeak, Peterson

#### C. Proposed Density Ordinance For Undeveloped Properties

M/S Ollinger, Signorelli, to recommend to the Town Council that Section 10-4.05, Improvements subject to Design Review, be changed to read: "Single Family Dwelling Construction, except as required under Section 10-8.3, duplex construction and apartments of less than five (5) units."

Motion passed unanimously.

M/S Peterson, McPeak, to recommend to the Town Council to revise proposed Section 10-8.3, use limitations, as follows: "Building construction in any subdivision of three (3) units or greater or any building located in a ridge zone as defined in Section 10-8.4 of this Chapter, shall be subject to design review."

Motion passed unanimously.

Jonathon Braun stated the design review process should be necessary for all developments down to the 150 foot elevation.

Motion Peterson, to recommend that staff be asked to develop a design review resolution as opposed to a design review ordinance, to include soils reports, landscaping plans, grading plans, etc., and other items the Planning Commission may add here.

Motion later withdrawn.

Commissioner Hayes suggested requiring visual profiles from several different vantage points for all projects in the ridge zone. Commissioner Ollinger pointed out that the Municipal Code reads that the Commission can require, if necessary, visual profiles and perhaps they wouldn't be appropriate for all projects.

Commissioner Peterson asked staff to revise the Design Review provisions already contained in the Municipal Code to reflect the concerns of various Planning Commissioners here this evening and come back with either changes in the Code or a resolution as staff feels is the best way to do it.

M/S Ollinger, Signorelli, to recommend to the Town Council that Section 10-8.4(b) read as follows: "Any structure located within a ridge zone shall not exceed one story and a maximum of 18 feet in height measured from the highest point of the natural grade line at the building site to the uppermost roof-line elevation. Construction that projects above the ridge line will be permitted only when it is demonstrated by the applicant that it represents a reasonable use of the land, and that the alternatives of building below the ridge are shown to be detrimental with respect to soil and geologic conditions, vegetation removal, and such other factors as are determined to be pertinent."

Motion passed unanimously.

M/S Peterson, Signorelli, to recommend to the Town Council that a new Section 10-8.2(b)(6) be added to read: "The above standards shall not be applied to new streets or extensions of existing streets."

Motion passed unanimously.

M/S Peterson, McPeak, that the Ordinance reflect that it is the intent to achieve a balance between community concerns of ridgetop overdevelopment and property owner concerns of confiscatory restrictions:

Motion carried: AYES: Hayes, McPeak, Peterson, Ragan,  
Signorelli  
NOES: Harle, Ollinger

Commissioner Peterson said this section was taken out of the proposed ordinance without any legislative function and, therefore, should be put back in.

M/S Hayes, Peterson, to delete Section 10-8.4(c), Density Bonus Option, from the proposed Ordinance.

Motion passed unanimously.

Peter Fraser, 100 Oak Knoll Avenue, noted that the original draft dated March 19, 1980, approved by both the Planning Commission and Town Council read: "It is the intent of this ordinance to limit the number of new housing units where existing access from the Town's central corridors to a new development is substandard. It is also the intent that existing substandard streets be upgraded to meet minimum standards for safety through assessment districts and/or off-site improvements . . ." and the September 29, 1980, draft was changed by the Town Attorney to read: "It is the purpose of this chapter to limit the number of new housing units where existing access from the Town's central corridors to a new development is substandard and to upgrade existing substandard streets to meet minimum standards for safety through assessment districts and/or off-site improvements . . ." He suggested that by combining the original two sentences in the second draft, equal weight was not given to the second sentence.

M/S Signorelli, Ollinger, to return the language found in the draft dated March 19, 1980, to the wording recommended by the Planning Commission and approved by the Town Council.

Motion passed unanimously.

M/S Hayes, Ollinger, to reaffirm the density table in the version of the Ordinance originally sent to the Town Council by the Planning Commission with one exception as suggested by the Town Council that the boundary elevation for Zone 1 be 150 feet.

Motion failed: AYES: Harle, Hayes, Ollinger  
NOES: McPeak, Peterson, Ragan, Signorelli

Jonathon Braun said the density numbers are set arbitrarily as the topography is not considered and suggested there be another session to consider slopes when discussing density.

Mr. McCarthy of Grenada, California said that he owns lands on the summit and is shocked to find out that now he may not be able to build.

Commissioner Ragan left the meeting at 1:00 a.m.

Commissioner Hayes referred to the Open Space and Conservation Elements of the General Plan, where areas with a slope of 30 percent or greater are classified as Health and Safety Open Space with an average density of one unit per ten acres.

Motion moved by Hayes, to add to Section 10-8.2 a new part, (e): (e) Public Safety Areas. Inasmuch as the Town General Plan has designated all areas having a gradient of 30 percent or more as part of the Geologic Hazard and Public Safety Areas, the following provisions are enacted: 1. Notwithstanding the density table in Section 10-8.2(a), parcels or portions thereof that exceed 30 percent in slope shall have an average density no greater than one unit per ten acres. The remainder of the parcel, if any, having a lesser slope shall have its density determined according to the density table in part (a); 2. Only lots deemed safe by appropriate soils tests shall be issued building permits.

Commissioner Hayes indicated that taking account of slope and computing density is the central issue. The particulars of this or any other motion to do so are subject to discussion. The motion in its current form is based upon the present Town General Plan."

Mr. Davison said it has been five years since the General Plan was adopted and some things in it are impractical.

Carl Baumsteiger said he is dumbfounded that this motion would be made now after all the deliberations.

Commissioner McPeak said there are many houses in Town built on steep slopes.

Gay Kagy noted that other Marin County cities have similar laws such as Commissioner Hayes has suggested.

Commissioner Hayes withdrew his motion, but added that the Health and Safety areas are still a concern.

It was understood that staff will review the draft Ordinance with the Town Attorney and that it will be returned to the Commission at a future meeting (with no further notification) and then sent to the Town Council.

Commissioner Peterson left the meeting at 1:30 a.m.

#### 4. NEW BUSINESS

- A. V-912 - Stanley Burford, 5 Hillcrest Avenue, A/P 7-121-49, a one foot sideyard variance and a 14 foot rearyard variance to construct a hot tub within seven feet of the side property line and six feet of the rear property line; and a 14'6" frontyard variance and an eight foot sideyard variance to construct a ten foot high front entry gate and fence within 5'6" of the front property line and zero feet of the side property line.

Stanley Burford, applicant, present.

Mr. Burford pointed out that the fence is proposed to be eight feet high from grade. Commissioner Ollinger questioned why it need be so high.

M/S Ollinger, McPeak, to approve V-912 for Stanley Burford, 5 Hillcrest Avenue, A/P 7-121-49, a one foot sideyard variance and a 14 foot rearyard variance to construct a hot tub within seven feet of the side property line and six feet of the rear property line; and a 14'6" frontyard variance and an eight foot sideyard variance to construct an eight foot high front entry gate and fence with the front stub to be only four feet high within 5'6" of the front property line and zero feet of the side property line; in that due to the existing location of the house and the contours of the land, it will not be detrimental to the neighborhood; and will allow the proper use of property rights.

Motion passed unanimously.

Applicant was advised of the ten day appeal period.

- B. V-913 - Jeffrey K. Noble, 50 Nokomis Avenue, A/P 6-082-33, a 19 foot frontyard variance and a 4'6" sideyard variance to construct a carport within one foot of the front property line and 3'6" of the side property line.

Jeffrey Noble, applicant, present.

M/S Ollinger, Signorelli, to approve V-913 for Jeffrey K. Noble, 50 Nokomis Avenue, A/P 6-082-33, a 19 foot frontyard variance and a 4'6" sideyard variance to construct a carport within one foot of the front property line and 3'6" of the side property line, because of the position of the house relative to the property lines; that it will not be detrimental to the neighborhood; and will allow for reasonable property rights.

Motion passed unanimously.

Applicant was advised of the ten day appeal period.

- C. U-556 - Mrs. Marcelle Krutch, 110 Calumet Avenue, A/P 6-071-04, use permit to allow additional independent living quarters in the main building (convert garage) to house a companion and/or domestic help (per Section 10-3.503(f) SAMC).

Mrs. Marcelle Krutch had been present earlier in the meeting, but left before this application was heard. Her representative was present to answer questions.

It was noted that several letters of protest had been sent to the Commission with the general concern being that these additional independent living quarters might be used for rental income purposes in the future.

Mrs. Krutch's representative said there will be no refrigerator and only a burner for cooking.

Mr. Robbins said there is adequate parking on the lot for this use. Mr. Robbins suggested that to satisfy the neighbors a condition in the motion could be that these living quarters will not be used for rental purposes. He pointed out that currently there are no more second units allowed in this neighborhood, but staff is proposing that four more be allowed. He also said that this use permit would be personal to the owner and if the property is sold, would become null and void.

M/S McPeak, Ollinger, to approve U-556 for Mrs. Marcelle Krutch, 110 Calumet Avenue, A/P 6-071-04, use permit to allow additional independent living quarters in the main building (convert garage) to house a companion and/or domestic help, subject to there being no fixed cooking facilities and this cannot be used as a rental unit; on the grounds that it will not be detrimental to the neighborhood; and will allow the enjoyment of substantial property rights.

Motion passed unanimously.

Applicant was advised of the ten day appeal period.

- D. V-914 - John and Janet O'Connor, 72 Lincoln Avenue, A/P 6-241-18, a third story variance to construct a living addition.

John O'Connor, applicant, and Frank Cuthbert, architect, present.

Commissioner Signorelli felt the roof is as flat as it can be; otherwise, it would not be consistent with the present character of the neighborhood.

Commissioner Ollinger said he understands the applicant's hardship, but the addition will sit up too high compared to the other homes in the area. Commissioner McPeak agreed.

It was suggested that the applicant talk to his neighbors and get their support for this application. There was no one else present in the audience to discuss the variance.

M/S Ollinger, McPeak, to continue V-914 to the meeting of November 3, 1980.

Motion passed unanimously.

- E. V-915 - Marie Pardi, 54 Sir Francis Drake Boulevard, A/P 6-191-21, six foot and 16 foot frontyard variances to construct living additions and open parking spaces within 14 feet and four feet of the front property line, respectively; four foot rear yard variances to construct an open deck and living addition within ten feet and 16 feet of the rear property line, respectively.

Brent Dickens, architect, and several neighbors had agreed earlier in the meeting to continue this item to the meeting of November 3, 1980.

- F. NU-20 - Bill Steele, 20 Durham Road, A/P 5-202-16, use permit to allow a second unit.

Bill Steele, applicant, present.

Mr. Steele said the second unit has been used for some time and appears to have been built in the 1960's.

Mr. Robbins said there is adequate parking on the lot for a second unit.

M/S Hayes, Ollinger, to approve NU-20 for Bill Steele, 20 Durham Road, A/P 5-202-16, use permit to allow a second unit on the grounds that it is necessary for the enjoyment of substantial property rights; it will not be detrimental to persons residing or working in the neighborhood; and will not be injurious to property or improvements.

Motion passed unanimously.

## 5. ADJOURNMENT

The regular meeting of the San Anselmo Planning Commission was adjourned at 2:13 a.m. to the next regular meeting on November 3, 1980.

*Lisa Burglin*

LISA BURGLIN  
PLANNING ASSISTANT