

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF JANUARY 4, 1993**

The regular meeting of January 4, 1993, was called to order at 8:00 p.m. by Chairman Mihaly in the Council Chamber. Staff present was Planning Director Ann Chaney and Planner Lisa Wight

A. CALL TO ORDER

Commissioners present: Julin, Israel, Kroot, Sias, Harle, Mihaly, Hayes

B. CONSENT

1. Minutes - December 7, 1992

2. **C-221 - Tom Ayers, 805 Sir Francis Drake Blvd.** A/P 6-082-14, Design Review
Amendment to change the exterior color of an existing commercial structure, on property located within the CL (Commercial-Limited) Zoning District.

Chairman Mihaly stated that staff has suggested an amendment to the Consent Agenda with the addition of Item D.4. if there were no objections from the Commission or audience.

M/S Israel, Julin to amend Consent Agenda to include Item D.4. **DR-9220 - Magda and Rick Westlund, 51 Tomahawk Drive, A/P 177-220-67**, design review for the construction of a new redwood deck and hot tub, and construction of a fence 6' in height between this residence and the neighboring house to the south, on property located within the R-1H Zoning District.

Motion unanimously passed.

M/S Julin/Kroot, to approve Consent Agenda with the findings as follows:

B2. 805 Sir Francis Drake Blvd: 1. Is functionally and aesthetically compatible with the existing improvements and the natural elements in the surrounding area. This revised paint change will reduce the amount of color contrast on the building allowing the architectural triangular elements a better blend with the rest of the building. 2. Provides for protection against noise, odors, and other factors which may make the environment less desirable. Repainting this building will have no impact on the above mentioned environmental factors and will not detract from the environmental quality of the area. 3. Will not tend to cause the surrounding area to depreciate materially in appearance or value or otherwise discourage occupancy. The physical improvement of the exterior of this building will upgrade this portion of town. 4. Will not create unnecessary traffic hazards due to congestion, distraction of motorists, or other factors and provides for satisfactory access by emergency vehicles and personnel. Repainting a portion of this building will not have an impact on the overall traffic in town. The only additional trips likely to occur will be generated by the painting contractors. 5. Will not adversely affect the health or safety of persons using the improvement or endanger property located in the surrounding area. Repainting this building will not create any additional hazards on the property. The contractors will adhere to all of the safety standards applicable to work on the exterior of existing commercial building. 6. Conformance to the approved precise development plans. This property is zoned C-L and a precise development plan is not required. 7. Adequacy of Screening. Because of the nature of this improvement no additional screening will be needed on this site. 8. Selection of architectural features that enable the structure to blend with its environment. The revised color scheme should blend with surrounding structures and be consistent with the existing colors presently use on the building. Conditions of approval: 1. That the request for design review be granted to repaint the exterior of this commercial building, in accordance with color scheme (B) on the color board submitted to the Town of San Anselmo. This calls for repainting the backdrop of the triangular features along the tope parapet of the building to a sorwood (sorcerer/buttonweed) as approved by the Planning Commission.

D.4. DR-9220 - Magda and Rick Westlund, 51 Tomahawk Drive. 1. Is functionally and aesthetically compatible with the existing improvements and the natural elements in the surrounding area. The proposed hot-tub, deck and landscaping have been designed in such a manner that they will not significantly alter the appearance of the hillside. The additional landscaping will further compliment the area providing more coverage, reducing the barren portions of this hillside. 2. Provides for protection against noise, odors, and other factors which may make the environment less desirable. The addition of this deck, hot-tub, and fences will not create or significantly alter any existing environment conditions in this area. The pool will conform with all of the established development standards associated with this site. Some additional noise and dust may occur during construction however, these will only be temporary and minor inconveniences associated with construction. 3. Will not tend to cause the surrounding area to depreciate materially in appearance or value or otherwise discourage occupancy. The proposed installation of a new deck, hot-tub, landscaping, and fence will result in the appreciation of this and neighboring properties. 4. Will not create unnecessary traffic hazards due to congestion, distraction of motorists, or other factors and provides for satisfactory access by emergency vehicles and personnel. No additional vehicular trips should result from this proposed addition. 5. will not adversely affect the health or safety of persons using the improvement or endanger property located in the surrounding area. The proposed dwelling will conform with all established codes controlling building and grading associated with the construction of a swimming pool and deck. These standards have been adopted to insure that all new development will not create any adverse or hazardous conditions during construction and after completion. 6. conformance to the approved precise development plans.

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A precise development plan was previously approved for this project and this amendment is not subject to a precise development plan. 7. *Adequacy of Screening.* all of the existing mature trees on this site will be maintained and an extensive landscape plan has been included. The proposed location of the deck and fence will not be highly visible nor will it severely change the appearance of the structure. The introduction of additional plants will significantly increase the amount of screening on the property and provide additional foliage on the hillside. The neighboring properties also have an extensive amount of landscaping. The solid wood fence will provide additional screening and privacy on the subject property, while the agricultural fence will not have a strong visual impact on the hillside. 8. Selection of architectural features that enable the structure to blend with its environment. This proposed deck and hot-tub and fences will be consistent with the existing character of the house. It also will not contract significantly from neighboring houses in this sector of town. **Conditions of approval:** 1. **That the request for design review be granted to construct an additional deck, hot-tub, and landscaping in accordance with the plans date stamped received by the Town of San Anselmo on October 23, 1992.** 2. **All colors used on the exterior of the house shall conform with the established color schedule for Quarry Mountain and material palette approved by the Planning Commission.**

Motion unanimously passed. Audience advised of the ten day appeal period.

C. PUBLIC HEARINGS - CONTINUED

1. PS-9201 - **Tony Richards for Viking Leon, Between Forest Avenue and Vista Lane**, south of Landsdale Station Park, A/P Nos. 7-021-07, 7-021-23, and 7-021-24, 1) environmental review; 2) parcel split to legalize the 1954 creation of three separate building sites, each of which is currently undeveloped. CONTINUED TO THE MEETING OF JANUARY 19, 1993

2. V-9240/DR-9218 - **Tony Richards for Viking Leon, 5 Vista Lane**, A/P 7-021-24, 1) design review of a single family dwelling; 2) a 17' frontyard variance to construct a dwelling within 3' of the front property line; 3) a 3' rearyard variance to construct bay windows within 17' of the rear property line; 4) a 20' frontyard variance for driveway retaining walls to be within 0' of the front property line; and 5) a 13' frontyard variance to construct an uncovered deck within 1' of the front property line. CONTINUED TO THE MEETING OF JANUARY 19, 1993

3. V-9244 - **Lenore Mathews, 72 Foothill**, A/P 7-033-12, a 17' front yard variance and an 8' side yard variance for an addition and a 2 car garage, within 3' of the front property line and 0' of the side property, on property located within the R-1 Zoning District. CONTINUED TO THE MEETING OF JANUARY 19, 1993

4. PDP-9203 - **Ben O'Hare, Redwood Road** (near 269 Redwood Road), A/P 7-141-04, 7-097-05 and 7-097-02, Preliminary Development Plan for the creation of two parcels from three existing parcels and the ultimate development of two homes and the extension of a private driveway. The 2.6 acre site is located along Redwood Road near 269 Redwood Road. The property is located within the R-1H Zoning District. CONTINUED TO THE MEETING OF JANUARY 19, 1993

5. V-9242 - **Robert Schulz, 130 Madrone**, A/P 7-114-16, a 10' front yard and 3'6" side yard variance to enclose a portion of an open porch which will then be 10' from the front and 4'6" from the side property line, on property located within the R-1 Zoning District. CONTINUED TO THE MEETING OF JANUARY 19, 1993

D. PUBLIC HEARINGS

1. V-9241 - **Bernie Arreaga, 31 Carlson Court**, A/P 5-062-35, a 15'7" variance to construct a 6' retaining wall within 4'3" of the front property line, on property located within the R-1 Zoning District.

The applicant was present.

Commissioner Sias wished to abstain because he is a neighbor.

Ms. Chaney presented the staff report on behalf of Planning Consultant Delvin Washington.

Mr. Arreaga stated that the peach tree in the front of his property was uprooted during high winds and his intent was to repair the damage. He rented a bulldozer to remove the roots and also thought that he would do some additional grading to allow for a level surface so his family to play basketball. His intent was to pour a concrete pad. He did not realize he needed permits for the grading but when he was red tagged he went to the Public Works Department and tried to rectify the matter. The Public Works Director stated that he had to replace the earth that had been removed or construct retaining walls. Mr. Arreaga stated that he put up a \$500 bond as his intention of good faith.

Commissioner Hayes stated that although he sympathized with the applicant, he was not able to make the special circumstance findings and therefore was inclined to agree with staff on denial.

Commissioner Julin understood that the applicant started the project with no ill intentions but agrees with staff that the slope should be brought back to its original condition.

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Commissioner Kroot was not able to find special circumstances for granting approval although he felt this project was very minor.

Commissioner Harle did not have trouble making the second finding about adverse impact and felt the finding for special circumstances could be that the applicant was attempting to gain a level play area on a steep slope. He indicated that the Commission previously approved a similar project on Vine Avenue.

Commissioner Israel felt the project was fairly benign and that it did not have an impact on many people but he supported staff because he did not want to see paving in the front of the property. He would consider approval if the area had grass and landscaping. He felt that two retaining walls, less than 30' would achieve the same affect as one 5' retaining wall. Also, the applicant would not have to get planning approval.

Chairman Mihaly supported staff recommendation of denial because he was not able to make the findings for special circumstances and there were alternatives, such as that stated by Commissioner Israel that would still achieve the applicant's goal.

Commissioner Hayes suggested a continuance to allow the applicant time to review the alternatives. He agreed with his colleagues that he would prefer the flat area to be used as landscaping rather than concrete because the paving would create a greater intensity of use.

Chairman Mihaly felt the Commission could act on this because the alternatives to the applicant would allow him to proceed with his project without a public hearing. He could discuss his options with staff.

Commissioner Kroot stated that a continuance would allow the applicant time to decide which course of action to take.

Commissioner Hayes wondered if the delay would cause hardship on the applicant due to the winter weather.

Ms. Chaney stated that the applicant was originally "red tagged" in August of 1992 and the Public Works Director sent a letter to the applicant outlining his options in September of 1992. She stated that a letter from Mr. Trees indicates that the trees is in danger but she did not feel that the slope was in imminent danger.

Commissioner Israel suggested that the applicant take measures to prepare his slope for winterization. He could contact the Town for the details.

M/S Hayes/Kroot, to continue V-9241 - Bernie Arreaga, 31 Carlson Court, A/P 5-062-35, a 15'7" variance to construct a 6' retaining wall within 4'3" of the front property line, on property located within the R-1 Zoning District. This continuance is to the meeting of January 19, 1993, to allow the applicant time to consider his options.

Ayes: Israel, Julin, Kroot, Hayes,
Noes: Harle, Mihaly
Abstain: Sias

Motion carried.

Mr. Arreaga stated that he wants to put in the retaining wall to protect his hillside but felt he might be able to achieve that with the smaller retaining walls with gravel on top.

Chairman Mihaly suggested that Mr. Arreaga meet with staff tomorrow morning to discuss his plan. He stated that if the smaller than 30' retaining walls were used, the application could be withdrawn prior to the next meeting.

2. V-9213 - Harry Kraft, 214 The Alameda, A/P 5-054-07, a 20' front yard variance to allow a 7'3" existing trellis structure to remain within 0' of the front and side property line; and an appeal of the Public Works Department administrative decision to deny the 6' fence within 5.5' of the front property line and within 0' of the south side property line, on property located in the R-1 Zoning District. (AFTER-THE-FACT).

The applicant was present.

Ms. Wight presented the staff report.

Mr. Kraft stated that the only discussion tonight should be for the fence because a motion of approval was granted at the November 2, 1992 meeting. Mr. Kraft stated that he purchased the property three years ago and the fence was there. He has been going through the appropriate channels to keep the fence. He did not feel that it was a safety issue and that The Alameda was not a heavily travelled street. He has never experienced any problems exiting his driveway. He stated that there is no sidewalk and

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and pedestrians walk in the street. He did not think the fence created a dangerous situation and was therefor requesting that the fence remain.

Ms. Chaney referred to the minutes of November 2, 1992, and indicated that indeed a motion of approval was granted for the trellis. She stated that in light of that, the only issue before the Commission was the fence.

Ms. Wight showed the Commission a diagram that the Building Inspector uses as a guideline for fences. She stated that this is also used by the County of Marin.

Commissioner Julin stated that she felt the corner should be moved back to create an opening.

Commissioner Kroot felt that the entire fence issue should be discussed in the zoning sub committee. He did however support the fence as it currently exists because the opening was wide and there is very little traffic on this street.

Commissioner Harle indicated that many of the homes in this district have the same type of fence and that testimony from the applicant indicates that traffic is not an issue. He therefore supports leaving the fence as it is.

Commissioner Israel stated that the fence already exists and other fences are similar in the neighborhood. Therefore, he did not feel a precedent was being set.

Commissioner Sias asked staff if there have been any record of accidents due to the fence. Ms. Wight stated that she has not contacted the Police Department. Commissioner Sias stated that because the fence as been there for three years and has more than likely not caused any accidents, he was inclined to feel that this fence was not a hazard.

Commissioner Hayes supported the fence, he concurs with Commissioner Sias that there has been no evidence from historical records that indicates this fence is a safety hazard. He did agree with the staff report that indicated "The Alameda roadway is wide and traffic is not heavy. It appears to Planning staff that because the 6' high fence is setback 5.5' from the curb, that there is adequate sight distance for drivers existing onto The Alameda."

Ms. Wight reiterated that she has not contacted the Police Department so it has not been determined that there have been no accidents due to the placement of the fence.

Chairman Mihaly stated that he did not feel it was very much to ask the applicant to spend perhaps 1/2 day and very little money to cut back a portion of the fence to allow for better sight. The Building Inspector has made a decision based on a safety issue and he did not want to supersede his judgement. He stated that he and his children walk on this street and contrary to what has been said, the street is very busy with children playing and riding bicycles.

Commissioner Kroot felt that this was a judgement call. He agrees that the letter of the law should be applied to areas such as Sir Francis Drake, Butterfield Road and Woodside Drive because of the heavy traffic volume but in this instance there has been no evidence that traffic was an issue.

Chairman Mihaly agreed that cars were probably not an issue, but children on bicycles were.

Commissioner Julin stated that she had great respect for the building inspector's judgement calls and has observed this in the fifteen years she has been in Town. She agreed that only minor modifications needed to be made to the fence by the applicant.

M/S Kroot/Hayes to approve V-9213 - Harry Kraft, 214 The Alameda, A/P 5-054-07, an appeal of the Public Works Department administrative decision to deny the 6' fence within 5.5' of the front property line and within 0' of the south side property line, on property located in the R-1 Zoning District. (AFTER-THE-FACT). The findings for approval are that the fence currently exists and has had no known history of accidents caused by the fence, there is minimal traffic along The Alameda, and other fences on The Alameda exists that are similar to this fence.

Ayes: Sias, Harle, Israel, Kroot, Hayes

Noes: Mihaly, Julin

Motion carried. Audience advised of the ten day appeal period.

3. V-9243 - Harry J. LeVine, 405 Scenic Avenue, A/P 7-032-02, 1) a parking variance for the property to remain without on-site parking; 2) a 5' rear yard variance to reconstruct an uncovered deck within 9' of the rear property line; and 3) a 8'4" front yard variance to reconstruct an uncovered deck within 5'8" of the front property line, on property located within the R-1 Zoning District

The applicant was present.

Ms. Wight presented the staff report. She also stated that staff received a letter from the applicant dated

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January 3, 1993 and that a letter was also left for the Commissioners. Ms. Wight stated that she has not contacted the Town Attorney regarding the questions in Mr. LeVine's letter because of the short notice. However, she did another site visit today and parked her van along side the road where the applicant parks his vehicle. She stated that the clearance was anywhere from 9' to 11' and the necessary clearance for the Fire Department was 12'. Ms. Wight indicated that the applicant can only make repairs, up to 25% of the market value of his property over a five year period.

Chairman Mihaly stated that he did not think a use variance existed in California. Ms. Chaney concurred. Chairman Mihaly then asked how the Town would be able to link the replacement of the deck and stairs to the parking. He stated that he needed more clarification prior to making a decision on this project.

Commissioner Harle wanted additional information on the use permit. It was very unclear in his mind. Commissioner Sias suggested that the Town Attorney also review Mr. LeVine's letter dated January 3, 1993.

Commissioner's Hayes and Sias also felt more information was required.

Commissioner Julin felt she could make the findings for the parking variance especially in light of the fact of the special circumstances but she was willing to go for a continuance.

Chairman Mihaly stated that he must have been misunderstood or unclear at the previous meeting regarding a comment that a deed restriction should be placed on this property. He thought that staff could put a note in the file and make the necessary comments regarding the substandard parking during the next sale of the property. The questions he has that still need to be resolved are: 1. Could the Town Attorney verify his statement that parking is a use? If parking is a use, why does the Town have parking variances? 2. Could the Town Attorney respond to the applicant's questions on his letter dated 1/3/93.

The consensus of the Commission was that this item should be continued for further clarification from the Town Attorney but that the applicant should be allowed to add any additional information prior to the continuance.

Mr. LeVine stated that he had an engineer review the drawings proposed by the previous owner for the 8'x24' on-street parking location. He stated that his estimate from the engineer was that it would cost approximately \$30,000 and he felt that was rather expensive for temporary parking. He stated that the use issue is really complicated he also has spoken with the Town Attorney.

Mr. LeVine stated that his house is less than 600 square feet and it is extremely important that he not be deprived of his outdoor living space. He understands that the parking deck should be built but at this time it is cost prohibitive. Mr. LeVine stated that if the Commission does not grant him the variances he would be willing to live with the fact that he will not propose any additions to his property without obtaining a parking deck.

Commissioner Kroot stated that in reviewing the drawing of the 8'x24' on-site parking he thought that it could be achieved at a much lower rate than \$30,000 and that perhaps he could use the engineered drawing that has already been prepared. Mr. LeVine stated that his engineer did not think that the drawing was workable as proposed.

Commissioner Israel asked staff to provide the definition of "reconstruction" for the next meeting.

Chairman Mihaly also wondered how far the carport can go outside the envelope and also wondered if permits were required.

Ms. Chaney asked the applicant the status of his deck. Mr. LeVine stated that most of the deck needed to be replaced.

M/S Sias/Julin, to continue V-9243 - Harry J. LeVine, 405 Scenic Avenue, A/P 7-032-02, 1) a parking variance for the property to remain without on-site parking; 2) a 5' rear yard variance to reconstruct an uncovered deck within 9' of the rear property line; and 3) a 8'4" front yard variance to reconstruct an uncovered deck within 5'8" of the front property line, on property located within the R-1 Zoning District. This is continued to the meeting of 2/1/93.

Commissioner Kroot would also like to see the applicant pursue other alternatives for parking.

Mr. LeVine stated he would be out of town for the February 1, 1993 meeting.

Ms. Chaney stated that the scheduled February 15, 1993 meeting falls on a Town holiday and wondered if the Commission was receptive to changing the meeting to February 16th.

M/S Sias/Hayes, to continue the February 15, 1993 meeting to the meeting of February 16, 1993.

M/S Sias/Julin, to continue Mr. LeVine's application to the special meeting of February 16, 1993.

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Motion unanimously passed.

E. GENERAL DISCUSSION

Chairman Mihaly indicated that he would like to try to enforce the 11:00 p.m. cut off of applications.

Commissioner Julin asked when the Bald Hill discussion will continue. Ms. Chaney indicated that a date has not yet been set but will in the near future.

Commissioner Kroot wanted to see another zoning sub-committee take place in the near future.

Commissioner Harle stated that although he accepted the Vice Chair position on the Commission this year, he wanted it known that he would be unavailable as Chairman next year.

F. OPEN TIME FOR PUBLIC DISCUSSION

There was none.

G. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

Ms. Chaney stated that the following applications had been appealed: Cellular One and 80 South Oak Avenue. She also stated that the Well Ordinance has been continued to allow Mr. Hochstrasser time to meet with the Town Attorney and staff and resolve some unanswered questions. Also, 22 Magnolia was still at the Council level.

H. ADJOURNMENT

The regular meeting of the Planning Commission was adjourned at 10:45 p.m. to the special meeting of January 19, 1993.

BARBARA CHAMBERS, ASA II