

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES FOR THE MEETING OF NOVEMBER 15, 1993**

The regular meeting of the Planning Commission was convened at 8:10 p.m. by Vice Chairman Harle in the Council Chamber by Vice Chairman Harle. Staff present was Planning Director Ann Chaney, Planning Consultant Delvin Washington, Planning Consultant Lisa Newman and Planning Intern Elaine Tope.

A. CALL TO ORDER

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

B. CONSENT

1. Minutes - November 1, 1993

M/S Sias/Julin, to approve consent agenda.

Ayes: Julin, Sias, Harle

Abstain: Israel

Motion carried.

C. CONTINUED PUBLIC HEARINGS

1. **V-9328/DR-9320 - Edmund Coyne, 25 Canyon Road, A/P 7-064-14**, a design review and variance to construct a new single family residence 15'6" from the front property line (20' required), and to remove six (6) required trees having trunks between 14" and 24" in diameter, on property located within the R-1 Zoning District (Above 150' mean sea level). **CONTINUED TO THE MEETING OF DECEMBER 6, 1993**
2. **DR-9314 - Andrea Moyer of 43 Tomahawk Drive, A/P 177-250-60**, a design review request to paint the exterior of the house with an alternative color that does not conform to the approved color palette for homes on Quarry Mountain, on property located within the R-1-H Zoning District. **CONTINUED TO THE MEETING OF DECEMBER 6, 1993.**
3. **Town of San Anselmo - Discussion** of existing Ordinance that permits 6' high fences/walls within the front yard setback and possible ordinance changes. **CONTINUED TO THE MEETING OF DECEMBER 6, 1993**

D. PUBLIC HEARINGS

1. **Housing Element Update Public Workshop - Town of San Anselmo**, a workshop to present information on the Town's update of the 1985 Housing Element. Topics will include: ABAG housing targets; possible changes to the General Plan and Zoning Ordinance; and second units (including illegal units).

Ms. Chaney explained the following items to be discussed: 1) The ABAG housing target numbers, 2) General Plan and Zoning Limitations; and 3) New housing programs

Ms. Newman discussed low income housing within San Anselmo. She detailed our goals in the 1984 Housing Element and the Town's progress in meeting these goals.

Ms. Chaney discussed the residential zoning/development standards and potential General Plan changes needed to create more flexible standards for affordable housing projects.

Commissioner Harle asked if the statutory allowances are going to be changed or if they are to be done on a case by case basis. Ms. Chaney explained that the intent would be to retain the various zones but on a case by case basis, allow changes to allow for affordable housing. She also recommends that the zoning ordinance be amended to allow residential uses in all commercial zones..

Commissioner Sias thought that those neighborhoods affected should be noticed for the public hearing. He wondered if the illegal second units have been factored in. Ms. Chaney responded by saying that if those units were to be legalized they would not count toward the Association of Bay Area Governments (ABAG) numbers of low income housing. The Department of Housing and Community Development HCD is looking for new affordable housing, not housing which already exists.

Commissioner Sias asked about the needs assessment.

Ms. Newman stated that they may have overemphasized the targets but the Town will also be judged by the programs that support existing second unit programs.

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Commissioner Harle wondered what the Town was really required to do. Ms. Newman stated that if the Town did not try to achieve the targets, it is conceivable that HCD could say that the Town's General Plan was not in conformance.

Ms. Newman discussed ways to get new housing programs.

Commissioner Julin wondered if EAH could sponsor a program or have a speaker to relate information to the public rather than the Town because of monetary reasons. Commissioner Israel suggested that the Town at least send out an annual bulletin to the Independent Journal and/or Ross Valley Reporter.

Commissioner Israel wondered if the second unit ordinance could not be changed to respond to more diversified incomes.

Ms. Chaney discussed the second unit ordinance and the rents charged as well as the illegal second units.

She asked the Commission to consider the policy change 3.1.1 to develop an amnesty program to encourage alleged illegal second unit owners to obtain a use permit and conform to the rent and income limits. She stated that she would like to see a target date to develop the program by December 1994, to be implemented in 1995. She asked that this policy be left in, at least for the time being. The Commissioners agreed.

Commissioner Harle did not see the gain in legalizing the illegal second units as a high priority, particularly if the Town does not receive credit for them.

Commissioner Sias said there are other driving factors that have caused a proliferation of the illegal second units, such as extended families, and elderly people who need someone else in the house. Until the Commission better understands the reasons, he felt reluctant to spend the time and expense finding the people. However, that did not validate the illegal units when other people use the right tools to get second units through use permits.

Commissioner Israel stated that in reality, housing is very expensive in Marin and people rent out space just to be able to maintain their homes.

Commissioner Julin commented that the per unit additional cost to the homeowner is approximately \$240. That would mean approximately \$48,000 additional property tax revenue to the Town. She also said there is a policy in the Marin Countywide Plan regarding in lieu fees for affordable housing, contributing money into a fund where the number of units are less than a 10 unit base, the developer contribute into the fund. She asked that this be considered. Also, she would like to see more mixed use projects.

Commissioner Sias stated that the number of school age children is on the rise and should be noted.

Commissioner Israel stated for "special needs disability persons", stated the Fair Housing amendments require upgrade or incorporation of special facilities if it applies to a project of 3 or more units. It might be better to address this issue on a project by project basis. 1.5, pg 26, - he thought this is a housing policy that should be looked at, because many of the two bedroom houses have been expanded into four bedroom houses.

Ms. Chaney asked that Policy Recommendation Number 2. "Strengthen the effort to promote second unit development by modifying the Resolution establishing a second unit rent and tenant income limits to set the rent control mechanism at 65% of the County median income and expand the acceptable tenant income range to 80% of the County median" be left in for consideration in upcoming hearings. The Commissioners agreed to this.

A Minister from the audience commended staff on all their efforts.

2. **NU-9303/V-9333 - Frank Wasuta, 37 Yolanda Drive, A/P 7-043-19, Use permit and Parking Variance from 3 to 2 spaces for a second unit on property located within the R-1 Zoning District. The second unit would be located within an existing two-story structure located within the rear and side yard setbacks. Parking on-site currently provides two spaces where 3 non-tandem spaces are required.**

The applicant was present.

Mr. Washington presented the staff report. He also distributed a letter from Mr. Wasuta dated November 14, 1993 that was a response to the staff report.

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Commissioner Sias asked if the applicant signed a deed restriction at the time of issuance of the building permit. Mr. Washington affirmed. Commissioner Sias asked how the Town can now allow the applicant to change his mind since the building permit was issued with the deed restriction prohibiting a second unit. Mr. Washington stated that the applicant was not required to have a public hearing for the new dwelling because he met all the required set backs.

Commissioner Julin thought it was very difficult to make sound planning decisions when applications come in piece meal. She felt it was a problem with how the Code is written.

Commissioner Harle stated that the neighbor at 39 Yolanda implied that the new house encroached into the setback by 4 inches. Mr. Washington stated that he has not measured that but will discuss it with the Building Inspector.

Commissioner Sias asked Mr. Washington to clarify some comments made by Mr. Wasuta. Mr. Washington presented a diagram that showed the lot with proposed parking as requested by the applicant as well as staff's recommendation for parking. Ms. Chaney stated that the public notice indicated a parking variance however, the applicant has subsequently informed staff that the parking requirements can be met and therefore a parking variance is not required.

Commissioner Israel asked if staff was going to require the applicant to use the garage for parking, would a variance be required because the structure is non conforming.

Mr. Wasuta stated that when he purchased the house he signed a deed restriction at the time of his building permit. He had no knowledge at that time that he could apply for a second unit. He was informed by staff after his building permit had been approved, and the work was in progress, that a second unit was available in his neighborhood. Hence, he considered the second unit. Mr. Wasuta was not in agreement with staff's recommendation to demolish a finished room with hardwood floors, with a bedroom immediately above, to establish a one car parking space, especially if adequate parking is available on the lot. He proposed parking to be to the rear and will plant trees that will shield the parking. With regard to the setback issue, he presented a copy of the survey of his lot. He stated that the neighbors allowed him to go 4" into the sideyard setback of 39 Yolanda because the markers were somewhat unclear at this point, and the Building Inspector confirmed that it would not be a problem. Mr. Wasuta stated that the wall in the front was intended to provide privacy for the front yard. They have ceiling to floor windows that face the front as well as beautiful trees and they wanted to enjoy that without people driving or walking down the street invading their privacy.

Jerry Burroni, 33 Yolanda, stated that he has lived in his home for 20 years and remembered that the portion of the garage closest to the side yard was added illegally several years ago. He explained that he is not against change but this particular change is very distressful. The new house was moved back because of the trees on the lot and this has compacted much of the density into a section of the lot. The property now houses three cars and with the possibility of a second unit there could be a potential for 2 more cars. He was in no position to make any comments about the addition when the applicant received a building permit but he was told at that time by the owner that he had no intention of applying for a use permit for a second unit. In fact, Mr. Wasuta signed a deed restriction which confirm that. Now, the applicant has changed his mind and is applying for the second unit. The density of two households would negatively impact his lot. Moving the parking more to the rear of the lot would be more of a negative impact on him because their patio is close to that area and would take away some of their outdoor living space because of the noise and fumes. Also, an increase in the number of cars in the neighborhood would be a detriment. He felt the applicant has the right of the use of his home but not for the use of a building for profit. The second unit would cause a detriment to the neighborhood.

Linda Ross, 39 Yolanda, presented a photograph as viewed from her house, and also presented a petition from neighbors that object to the project. She felt that they should have had a say at the beginning of the project if they knew the applicant was going to have a second unit. She did not think the grandfather clause should be taken into consideration for the setbacks if the use will change. She did not think the cars would be able to get in and out of the driveway easily. Regarding the new residence, she said he could stucco the fence 4" into their property with the understanding that he was not going to use the unit as a rental. She also did not think the public notice was properly noticed because it did not indicate the setback variance for the second unit.

Ms. Chaney stated that since Mr. Wasuta is asking for a use permit for the second unit in the non conforming unit, to error on the side of conservatism, it should be renoticed to indicate the setbacks, especially because of the intensity of the use and the use of the structure has changed.

Steve Strand, 20 Yolanda, was unhappy to see two, two story structures on one lot, and felt it was distressing that the creep process has evolved. He was informed that the small house was going to be torn down, and then was told that it would be used for a home office; now a second unit. He believed the second unit would be a negative impact in the neighborhood.

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Carman Strand, 20 Yolanda, said that Yolanda has a wonderful ambiance and should be protected. She felt there should be a way of providing low income housing so that it will not stand out, rather she would like to see it integrated within a single family home. Granting the use permit would be detrimental to the ambiance of this unique neighborhood.

Cathy Beck, 50 Yolanda, has lived at this address for 17 years and was opposed to another second unit. She has one next to her now and it creates additional noise and additional traffic in the neighborhood. The additional traffic will be unsafe for the children. She felt that this specific second unit would be detrimental in their neighborhood.

Mr. Wasuta said he never intended to tear the small house down. He does agree that he has changed his mind on a few occasions but what he heard from the neighbors was that his neighborhood is too good for a second unit. He asked the Commission to consider his proposal because he meets all the criteria for the use permit.

A member of the audience asked if the unit could be a two bedroom unit because there is are bathrooms both upstairs and down. Staff affirmed that it could.

Mr. Wasuta stated that he would not be opposed to restrictions on the use permit if he was granted a second unit.

Ms. Chaney noted that no decision should be made tonight because the application should be renoticed for the side yard variance.

Commissioner Sias said that there is evidence that this will cause harm to the neighborhood, partly because of the process with the covenant being signed and now the applicant changing his mind. He was inclined to deny the second unit and because there seemed to be an over intensity of use concentrated at the rear of the property.

Commissioner Julin concurred with Commissioner Sias. She stated that the neighbors are not really hostile and would probably have worked with the applicant if all information was presented at the beginning of the building permit. Also, she wondered if the applicant would reconsider the wall fronting his property because of the exquisite neighborhood and disruptive of the streetscape.

Commissioner Israel stated that it seemed as soon as applicants sign deed restrictions it puts up a red flag that the property will never have a second unit. He said that this project is a prime example of why he is so in favor of a design review in the flat lands. If this permit was approved he would be tempted to restrict the parking and require that two cars be parked in the garage; also that the driveway area be asphalted and the gravel removed. The structure is there, and will not have to be removed. He agreed with the comment that second units should be incorporated within a single family.

Commissioner Harle said the deed restriction only states that the unit will not be currently to used as a second unit, but does not mean that the use cannot change sometime in the future. Also, the second unit ordinance has been put in place to provide low income housing, therefore this is a reasonable application, and in fact one of the more appropriate second unit applications recently approved. However, because there are four units on Yolanda, it might be too many second units in such a concentrated area. Also, the property is densely populated at the back part of the lot.

Commissioner Israel echoed Julin's comments about the stucco wall, in that he was not in favor of it.

M/S Sias, Julin to continue NU-9303/V-9333 - Frank Wasuta, 37 Yolanda Drive, A/P 7-043-19, Use permit and Parking Variance from 3 to 2 spaces for a second unit on property located within the R-1 Zoning District. The second unit would be located within an existing two-story structure located within the rear and side yard setbacks. Parking on-site currently provides two spaces where 3 non-tandem spaces are required. This is continued to December 6, 1993.
11:30 45 min transcribe

E. GENERAL DISCUSSION

Ms. Chaney stated that the owner of 55 Durham requested a front fence plan that seems too constricted but wanted the Commission to give their opinion. They stated that it should be more open.

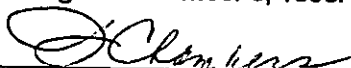
F. OPEN TIME FOR PUBLIC DISCUSSION

G. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

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H. ADJOURNMENT

The regular Planning Commission meeting was adjourned at 11:50 p.m. to the next regular meeting on December 6, 1993.


BARBARA CHAMBERS