

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES FOR OCTOBER 16, 1995**

The regular Planning Commission meeting of October 16, 1995 was convened at 8:00 p.m. in the Council Chamber by Chairman Israel. Staff present was Planning Director Ann Chaney and Associate Planner Lisa Wight.

A. CALL TO ORDER

Commissioners present: Mihaly, Sargent, Ollinger, Israel
Commissioners absent: Harle, Hayes

B. CONSENT

1. Minutes - October 2, 1995

2. V-9546 - Alan Voigt, 35 Sierra Avenue, A/P 5-194-19, a side yard Variance to increase the overall height of an existing wall located within the north side setback area. The wall will be 4' taller and extend toward the front yard by a length of 5'6". This wall is located 4' from the north side property line (8' required) for property located within the R-1 Zoning District.

3. V-9544 - Cindy Kirschner, 1357 San Anselmo Avenue, A/P 7-052-07, a variance to construct a rear addition to an existing house within 3' of the west side property line and within 7' of the east property line (8' required). This house is being rebuilt on property located within the R-1 Zoning District.

4. V-9548 - Bob and Bethanne Makohin, 141 Barber Avenue, A/P 6-192-27, a north side yard Variance to construct a bay window, with floor area, within 7' of the north side property line (8' required) on property located within the R-1 Zoning District.

The applicant's representative for 35 Sierra stated that the noticing did not include all the variances. Based on that information Staff requested Item B2 be removed from Consent and continued to the meeting of November 6, 1995 to allow for proper noticing.

M/S Sargent/Ollinger, to approve Consent Items B1, 3, and 4. Motion unanimously passed.

C. OPEN TIME FOR PUBLIC DISCUSSION

There was none.

D. PUBLIC HEARINGS - CONTINUED

1. DR-9516/Environmental Review - Sarita Patel for George Lucas, 133 Essex Street, A/P 6-121-21 and 6-161-01, Environmental review and design review of a development project for a single family dwelling (including a tennis court, retaining walls, grading, alteration of a ravine to a meadow, a bridge over Ancho Vista Avenue) on property located within the R-1 Zoning District. CONTINUED TO NOVEMBER 6, 1995

2. Shelagh Kew Barker, for 1100, 1104, 1108, 1112, 1116, 1120 AND 1124 Sir Francis Drake Boulevard, APN'S 6-031-07, 6-031-08, 6-031-09, 6-031-10, 6-031-11, 6-031-12 and 6-031-13, 1) Approval of a new zoning category from R-1 (Single Family Residential) to R-2 (Two Family Residential, Arterial); 2) environmental review; 3) Amendment to the General Plan Map. The current General Plan land use designation for these properties is Single Family. This designation would have to be changed to Medium Density; and 4) Amendment of Table 4A of the Zoning Code to include a new zoning category. CONTINUED TO NOVEMBER 6, 1995

3. ER/PDP-9501/V-9541 - Jack Hunt, Between 41 and 43 Tomahawk Drive, A/P 177-250-31, 1) Environmental Review, 2) Planned Development Permit, and 3) Variances to ultimately construct a single family home with access via a long driveway off of Tomahawk Drive. A Variance is required to construct a 450' long retaining wall (maximum height of 7') within 3' of the north side property line (8' required) and within 3' of the front property line (20' required); and to construct a series of retaining walls totaling 251' long (maximum height of 9') within 2' of the south side property line (8' required). These retaining walls are proposed for the driveway and parking area and deck. Design Review for a specific house design is not part of this application. The property is located within the R-1-H Zoning District. CONTINUED TO THE MEETING OF NOVEMBER 6, 1995

4. U-9506/DR-9512/V-9527 - Warren Perry, 100 and 120 Sir Francis Drake Boulevard, APN's 6-241-01 and 6-241-02, 1) Design Review, 2) Use Permit, and 3) 14 space Parking Variance (24 spaces required; 10 provided on-site; 13 shared with adjacent use) to construct a 10,320 square foot, 22'6" tall, warehouse storage facility (4,950 square feet existing -formerly Crocker Bank building). NOTE: The applicant indicates that it appears the storage use is not going to be pursued. The scope of a new project is unknown at this time and may or may not require discretionary permits. If discretionary permits are required, renoticing will occur on property located within the C-3 (General Commercial) Zoning District. CONTINUED TO THE MEETING OF NOVEMBER 6, 1995.

5. DR-9521 - Luis Huerto Rojo, 120 Spring Grove Avenue, A/P 6-221-03, design review and variance to 1) construct a single family residence, and to remove 15 Bay trees between 6" and 30" in diameter, and 2) to construct a 7' tall retaining wall 0' from the front property line (20' required) on property located within the R-1 Zoning District. CONTINUED TO THE MEETING OF NOVEMBER 6, 1995

E. PUBLIC HEARINGS

1. Environmental Review/Z-9503/GPA - Thomas and Carol Thompson, 63 Magnolia Avenue, A/P 7-213-55, Requests: 1) Environmental review; 2) General Plan Map Amendment: to change the classification from Single Family: 1-6 units per acre to Medium Density: 6-12 units per acre; 3) Rezoning to change the classification from R-1 (Single Family Residential) to R-2 (Two Family Residential); and 4) Zoning Ordinance Amendment to Table 4A, Footnote 4: to delete the reference to R-2 as follows: "The minimum lot area for all newly created R-2 (strike R-2 out), R-3, and P lots shall be as

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described in this table. No allowance for rounding up shall be granted for the last lot in a subdivision, which only partially meets the lot area requirement."

The applicants were present.

Ms. Wight presented the staff report.

Commissioner Mihaly asked about the zoning of properties surrounding the applicant's property. Ms. Wight showed the Commission the Town's Zoning Map which indicates that the property is surrounded by R-2, R-3 as well as some R-1 zoning.

Ms. Thompson stated that when she purchased the property in the 1970's the house was substandard. She stated that they completely renovated the property. They have always kept that second unit as affordable housing, even after they moved. If that unit is abated, and the kitchen is abated, the property will have to be reverted to a single family use. The house is built to be two units and she does not feel this would be the best use of the property to abate the second unit. It would take away from affordable housing and moderate income housing.

Joyce Warnsman, 60 Magnolia, is present representing Mr. Amad, the owner of the apartment building. They have no desire to dislocate the tenants but are concerned about the zone being changed. She asked if the owners then be able to construct additional living quarters if the zone were changed. Another concern is additional vehicles on a very narrow street. Lastly, the owner's concern is the issue of property lines and the driveway. Mr. Amad is concerned about the clear title to that portion of the driveway.

Ms. Thompson said that a survey was done in 1980 and that she has as an easement for ingress and egress. When she purchased the property she had no knowledge that she did not own that portion of the driveway.

Commissioner Mihaly asked about the reasoning behind the Town policy of requiring the owner to live on the premises. Staff responded. He stated that he did not think he could make a decision to approve the rezoning of the property. The rezoning seems like spot zoning. The Town would lose a low income unit if the zoning is changed. If the Town will entertain rezoning of substandard lots, we would have to do it all over Town. He felt the need for low income housing was so important that perhaps he would consider discussion of loosening up the requirements of owner occupancy.

Commissioner Sargent agrees with Commissioner Mihaly. The Town should look for a way to come up with a process where a request can be asked for leniency with the stipulation that if the property is not kept up to certain standards, it will be abated.

Ms. Wight read the Code with regards to the exception where the owner does not have to live on the property.

Commissioner Mihaly said there is a bone fide low income tenant, and there are no complaints from the neighbor, and the neighborhood is filled with other intense units.

Commissioner Ollinger said the only reason the unit exists is because the Second Unit Ordinance exists. He did not see a hardship to the owner. He does not feel he could make a decision in favor until the driveway situation has been cleared up. Also, the question about who is suffering the hardship should be researched by staff and the Town Attorney.

Chairman Israel said the Town either disbands the owner/occupancy rule or continues to enforce it. He does believe there is validity to the owner occupancy because the owner does keep up the property better. He does not feel he could approve this as a hardship. If the Council feels there is value in evaluating owner/occupancy he would be happy to discuss this. Also, until the driveway issue has been resolved he would not be able to support the project. He does not have the tools to grant the hardship.

M/S Sargent/ Ollinger, to deny the application for reasons stated in the staff report

Ayes: Sargent, Ollinger, Israel, Mihaly

Commissioner Mihaly said he would vote for hardship where there is an existing low income tenant, the neighborhood is rather dense, and neighbors do not object. Sargent also said that he would consider granting a hardship for the reasons stated by Commissioner Mihaly.

2. V-9547 - Terry and Sally Durkan, 126 Tamalpais Avenue, A/P 7-211-40, a front yard and side yard Variance to construct a first and second story addition 8'6" from the front property line (20' required) and within 6'6" of the north side property line (8' required) on property located within the R-1 Zoning District.

The applicants were present.

The owner stated that shingles will be placed on the addition, similar to what currently exists.

Commissioners Sargent, Mihaly and Israel support the proposal.

Commissioner Ollinger said he supports the application and strongly encourages that the sidewalk be constructed.

M/S Sargent, Ollinger to approve V-9547 - Terry and Sally Durkan, 126 Tamalpais Avenue, A/P 7-211-40, a front yard and side yard Variance to construct a first and second story addition 8'6" from the front property line (20' required) and within 6'6" of the north side property line (8' required) on property located within the R-1 Zoning District.

1. *Due to special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the controlling zoning ordinance or regulation deprives the property of privileges enjoyed by other property in the*

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vicinity and under an identical zoning classification, and the granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. Staff typically does not support variance requests. In this particular case, it appears that due to the surroundings (the neighboring dwellings setback from this property) and the location (of the dwelling in relation to the road and neighboring dwellings), that this could be considered special circumstances. While precedent-setting is a concern with staff, it appears that due to the small size of the addition and its location, the approval of this variance would not be a grant of special privileges. 2. *The granting of the variance, under the circumstances of the particular case, 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 detrimental to the public welfare or injurious to property or improvements in such neighborhood.* Due to the location of this addition in relation to neighboring dwellings, the granting of the variance, under the circumstances of the particular case, 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 detrimental to the public welfare or injurious to property or improvements in the neighborhood. Conditions of Approval: 1. That a Certified Arborist prepare a Tree Protection Plan for the large oak tree located approximately 9' from the proposed infill addition; and 2. That the applicant attempt to save the small tree in front of the addition, and if that is not possible to replace it with a similar species to provide screening from the street. For Information: 1. The Public Works Director is considering requiring installation of a sidewalk on the street frontage in conjunction with this addition. This will be handled at the building permit stage; and 2. A deed restriction will be required for the lower floor to assure that this area will not become a second living unit in the future. This will also be handled at the building permit stage.

All eyes. The audience was advised of a ten day appeal period.

F. GENERAL DISCUSSION

There was no general discussion.

G. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

Staff explained that the Bald Hill Plan and 365 San Anselmo Avenue will be heard at the Council.

H. ADJOURNMENT TO NOVEMBER 6, 1995

The regular meeting of the San Anselmo Planning Commission was adjourned at 9:15 p.m. to the next meeting on November 6, 1995.

BARBARA CHAMBERS