

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES FOR OCTOBER 2, 1995**

The regular meeting of the San Anselmo Planning Commission was convened at 8:00 p.m. in the Council chamber by Chairmen Israel. Staff present was Planning Director Ann Chaney and Associate Planner Lisa Wight.

A. CALL TO ORDER

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

B. CONSENT

1. Minutes - September 5, and 18, 1995

2. V- 9542/U-9504/Environmental Review - Tom and Lilka Areton, 104-106 Butterfield Road, , APN's 5-072-17 and 5-072-18, A parking variance and a use permit and environmental review to allow Cultural Homestay International, a non-profit social service institution, to operate on property located within the R-1 Zoning District.

3. V-9543 - Robert and Darcy Jarrett, 261 Los Angeles Boulevard, A/P 6-011-18, a parking variance to permit the existing driveway parking to remain (which is substandard in size) in conjunction with the addition of a master bedroom, on property located within the R-1 Zoning District.

4. 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.

Ms. Chaney mentioned that design review was required for 1357 San Anselmo Avenue and it wasn't noticed. Therefore it was pulled off the agenda and continued for noticing until 10/16/95.

M/S Harle/Sargent to approve Consent Agenda Items 1 through 3. Motion unanimously passed. Audience advised of the ten day appeal period.

C. PUBLIC HEARING WITHDRAWN DUE TO REDESIGN

1. V-9545/DR-9524 - Janice Przybylski, 246 Redwood Road, A/P 7-095-38, a variance and design review request to construct an addition that will be located 5' 6" from the east side property line (8' required) and to maintain 2 off-street parking spaces (3 required) on property located within the R-1 Zoning District. (Above 150' Mean Sea Level)

D. OPEN TIME FOR PUBLIC EXPRESSION

There were no public comments

E. 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 OCTOBER 16, 1995

2. DR-9521 - Luis Huerto Rojo, 120 Spring Grove Avenue, A/P 6-221-08, design review to construct a single family residence, on property located within the R-1 Zoning District. CONTINUED TO THE MEETING OF OCTOBER 16, 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 OCTOBER 16, 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 sq. ft., 22'6" tall, warehouse storage facility (4,950 sq. ft. existing - formerly Crocker Bank building) on property located within the C-3 (General Commercial) Zoning District. CONTINUED TO THE MEETING OF OCTOBER 16, 1995

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5. 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 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." CONTINUED TO THE MEETING OF OCTOBER 16, 1995.

F. PUBLIC HEARINGS

1. DR-9519/PDP Amendment - Peter and Pamela Fraser, End of Oak Avenue, A/P 7-154-14 (Formerly 7-154-04) 1) Design review to construct a 4,668 square foot house; and 2) amend the previously approved Precise Development Plan, on property located within the R-1H Zoning District.

The applicant was present.

Ms. Wight presented the staff report, noting amended conditions of approval. Staff pointed out that the building envelope has been revised to remain similar in size to the originally approved envelope. However, it has been reconfigured to delete the northwest corner of the site to retain a cluster of trees for screening. Staff visited the site with the Town Arborist and found that many of the trees to be removed were in good condition. However, generally it appears that adequate screening will still exist to screen the new house.

Staff reviewed with the Commission the set of revised conditions. Of note is a recommended recorded notice on the deed which refers a future property owner to the approved Town documents for conditions of approval. In addition, there is a condition regarding trees around the perimeter of the house that are to remain.

Chairman Israel asked whether the Fire Chief had a concern with the 17" Madrone. Staff indicated that this tree is about 10 feet away from the house and was not identified by the Chief as being a concern.

Peter Fraser, applicant, explained the reasoning of the house design and retention of certain trees. Mr. Fraser argued that trying to save the 12" oak (No. 16 on Steve Arago's plan) would force the shifting of the house and threaten other trees that are to remain. He also stated a great deal of thought went into the entrance, garage, and house design, due to the slope, and to redesign would be difficult to achieve.

Jonathan Braun, 479 Scenic, explained that the oaks being preserved are seasonal oaks and therefore are deciduous. He recommended that the Madrone be preserved. He also provided a photo of the Gill house at 663 Oak Avenue which has white trim and the fact that it can be seen through the trees from Scenic Avenue. Therefore, he recommended that white windows be reconsidered.

Chairman Israel closed the public hearing.

Commissioner Sargent asked whether it is a good idea to delay the decision on the landscaping until the construction of the house. He felt the landscape plan should be done now.

Chairman Israel stated that in some other cases the size and type of tree has been determined with the precise location decided at a later date. He is sympathetic with Mr. Braun's comment on the Madrone, but would rather opt for the Fire Chief's recommendation. Another option however is to leave the tree and decide when the house is built. Instead of trying to "play camouflage" he would rather see a well designed house.

Staff stated that with the deciduous trees, it might be better to wait on tree placement. Chairman Israel said he does feel confident of what the house will look like - it will be out there.

Staff recommended that "exact location, species, and size" be added and that No. 4 condition be deleted.

M/S Sargent/Harle, to approve DR-9519/PDP Amendment - Peter and Pamela Fraser, End of Oak Avenue, A/P 7-154-14 (Formerly 7-154-04) 1) Design review to construct a 4,668 square foot house; and 2) amend the previously approved Precise Development Plan, on property located within the R-1H Zoning District. Approval is based on the following:

Precise Development plan amendment.

Design Review

Required Finding 1. That the Precise Development Plan projects and preserves the natural and existing land forms and vegetation of the hillside and ridges, water courses, and any unique habits located on the property. The amendment to the building envelope increases buildable land on the southwest and southeast sides of the property. The building envelope is reduced on the north (rear) side of the property, protecting additional large oak trees. The dwelling is stepped into the topography, thereby reducing the amount of necessary grading.

Required Finding 2. That the precise grading plan is designed to retain the natural and existing features of the land, that cuts and fills are minimized, and that all graded areas are rounded and contoured to blend with the existing topography. See discussion under Finding No 1 above.

Required Finding 3. That both on-site and off-site roadways are structurally suitable and adequate to carry projected traffic, and that the proposed development will not generate traffic which cannot be adequately accommodated by the roadway network outside the project area. The revised building envelope does not change the original finding.

Required finding 4. That the intensity of development will not have the potential to make a residential street traffic dominated. The revised building envelope does not change the original finding.

Required Finding 5. That building site locations and the access to said building sites are selected to minimize visibility of the development from the remainder of the community, and are geologically stable. The proposed location of the dwelling on this site and the removal of some tall screening trees may result in the dwelling being visible to properties to the west. However, the construction is closer to the road and the side neighboring properties, which may minimize the visibility.

Required finding 6. That development is located so as to be screened by portions of the site where existing topography provides screening or by existing woodlands. Development within existing woodlands may be allowed if tree removal is minimal. The site is heavily wooded with large trees surrounding the proposed building envelope and plans are to plant additional trees.

Required Finding 7. That landscaping is provided to screen, maintain or improve the overall visual quality of the project as it relates to the community; that said landscaping aspects of improvements such as cuts, fills, and retaining walls. That the type and character of plant materials employed in said landscaping are reasonably related to plants in the surrounding areas. That said landscape plans demonstrate a recognizable pattern or theme for the overall development by choice and location of plant varieties; The Tree Protection Plan, the recorded C&R language relative to trees inside and outside the building envelope, the proposed new trees, and attention given to saving the twin 12" Madrone near the rear wall of the guest and dining rooms (identified as Tree No. 19 by Steve Arago) should provide adequate screening.

Required Finding 8. That pedestrian easements are provided where pedestrian facilities are not contained within streets. That continued use of established local trees and trails associated with the accepted Countywide Trails Plan is preserved. The revised building envelope does not change the original finding.

Required Finding 9. That where developable land exists beyond the development being considered, that road easements are provided to the appropriate bodies. That such easements are to the same standards as other public roads within the development. The revised building envelope does not change the original finding.

Required Finding 10. That where developments include dedication of public open space, or that where developments about existing public open space, that access to said public open space is provided for the public, including public emergency, and public open space management vehicles and equipment. The revised building envelope does not change the original finding.

Required Finding 11. That construction, if any, within the ridge zone meets the following findings: a). That any construction within the ridge zone is permitted only when the applicant has demonstrated to the satisfaction of the Planning Director and the Planning Commission that construction outside of the ridge zone would be detrimental with respect to soil and geologic conditions, vegetation removal, drainage and such other factors as are determined to be pertinent; and b). That construction allowed within the ridge zone, under this Article is kept to a low visual profile, the acceptance of which shall be determined in the Design Review process.

The revised building envelope does not change the original finding.

Required Finding 12. That the Precise Development Plan does not adversely affect the health or safety of persons in or adjacent to the area or endanger property located in the surrounding area. The revised building envelope does not change the original finding.

Required Finding 13. That the Precise Development Plan is in conformance with the San Anselmo General Plan, with specific reference to the applicable sections of the General Plan. The revised building envelope does not change the original finding.

Required Finding 14. That each individual phase of development, as well as the total development, can exist as an independent unit. The revised building envelope does not change the original finding.

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Finding 1. Is functionally and aesthetically compatible with the existing improvements and the natural elements in the surrounding area; The building design and materials will be functionally and aesthetically compatible with the existing improvements and the natural elements in the surrounding area.

Required Finding 2. Provides for protection against noise, odors, and other factors which may make the environment less desirable; This project will not make the environment less desirable.

Required Finding 3. Will not tend to cause the surrounding area to depreciate materially in appearance or value or otherwise discourage occupancy, investment or orderly development in such area; This project will not cause the surrounding area to depreciate materially in appearance or value or otherwise discourage occupancy, investment, or development in the area.

Required Finding 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; This project will not create unnecessary traffic hazards and the access has been approved by the Ross Valley Fire Department.

Required Finding 5. Will not adversely affect the health or safety of persons using the improvement or endanger property located in the surrounding area. This project will not adversely affect the health or safety of persons or endanger property.

Required Finding 6. Conformance to the approved precise development plan. The precise development plan amendment and design review are being considered simultaneously.

Required Finding 7. Adequacy of Screening. The dwelling will be screened by existing woodland and additional landscaping will be provided.

Required Finding 8. Selection of architectural features and colors that enable the structure to blend with its environment and which results in a low visual profile. For persons standing directly in front of the proposed structure on Oak Avenue the dwelling will be visible. Resolution No. 3263 states that the structure shall not exceed 30 feet above average grade, unless it can be demonstrated during the Design Review process that a house, not exceeding 35', can be built without adverse visual impacts. The garage roof peak will be 30.67' above average grade, the guest room and master bedroom roof peak will be 31.67' above average grade, and the chimney at the master bedroom will be 33.67' above average grade. Due to the natural exterior materials and the heavy woodland, it should blend with its environment. The intent of the "low visual profile" finding is meant to be "as viewed from surrounding hillsides". This dwelling should not be highly visible from surrounding hillsides. Conditions of approval are: 1. This approval is based on the plans and color board received by the Town of San Anselmo on July 28, 1995, and marked up by the applicant on September 8, 1995, and the landscape plan received by the Town of San Anselmo on September 28, 1995. 2. The following Notice to Owner shall be recorded: "Notice to Owner - Before commencement of any improvement or tree removal on this property, the owner shall comply with all governmental laws and regulations including Resolution Nos. 3263, Resolution No. 3307, the recorded CC&Rs, and the Recorded Conditions of Approval approved by the Town of San Anselmo on October 2, 1995. 3. The exact location, species, and size of replacement trees shall be determined by the Planning Director prior to issuance of the Certificate of Occupancy. 4. Tree Removal - a) Outside the Building Envelope (Language of Resolution 3307, Condition 17). Tree Removal Restrictions: For those trees and plants located outside the building envelope, the removal of trees, shrubs and herbaceous plants shall be prohibited except for reason of disease, and the need to maintain fire and human safety. Pruning of trees for any other reason (e.g., views) outside the building envelope is permitted but should not exceed 25% of the total canopy area. For reasons other than tree health, fire or human safety, a tree permit must be obtained from the Town. B) Inside the Building Envelope: All trees inside the Building Envelope area subject to Fire Department regulations. The trees around the immediate perimeter of the house shall be subject to the same conditions as those Outside the Building Envelope. These trees are identified as follows: the 33" Oak at the garage, the 8" and 10" Oak at the deck at the entry, the 18" Oak at the southern corner of the deck, the 27" Oak at the living room, the 21" Oak at the front entry, and the 15" Oak at the driveway entrance. C) The remaining trees within the Building Envelope, including those in a future pool site area may be removed subject to an amendment to this Design Review and shall be subject to tree replacement. Motion unanimously passed. Audience advised of the ten day appeal period.

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

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(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.

The applicant and her attorney, Fred Peterson, were present.

Staff presented the staff report and briefed the Commission on their direction to staff and Ms. Barker. Mr. Peterson stated that they are withdrawing the proposal to rezone the corridor along Sir Francis Drake and instead request action on Ms. Barker's property at 1108 Sir Francis Drake Blvd.

The applicant is proposing to rezone the specific property from R-1 to R-2 and a variance to change the minimum lot size downward from 7,500 square feet.

Mr. Peterson summarized the existing conditions in this area and argued that Ms. Barker's neighborhood is an R-1 island within a higher intensity zone.

Haymer v. Town of Ross seems to be the outstanding case law on spot zoning. Mr. Peterson described this case and how he felt it was similar to this case. He stated that the courts asked "What is the predominant characteristic of the neighborhood?" He acknowledged that the Commission does not deal with variances from lot size but he sees no reason why they cannot. Ms. Barker's property is 7,000 square feet.

Mr. Peterson stated that the property is already developed with a second use and therefore a duplex use. The lot is already small for a R-2 zoned property. Also it is located on an arterial highway and is characterized as 50-60,000 vehicles per day. This increase in traffic has changed the appropriateness for single family homes.

Mr. Peterson stated that staff is concerned that a change in the zoning would generate other similar requests and create an increase in traffic. The Barker property, he argued, is already a duplex use. Thus there is no physical change in the use.

Commissioner Sargent addressed the question of "neighborhood" and why these properties were designated single family. For example, Ms. Barker's property may be more akin to the "neighborhood" along San Francisco Blvd. not further up Sir Francis Drake Blvd.

Mr. Peterson argued that the Haymer v. Ross case talked about the Sir Francis Drake corridor and that that property was part of the corridor's "neighborhood".

Chairman Israel asked staff if renoticing was required. Staff affirmed.

Chairman Israel asked if staff has information on which of any of the houses already have approved second units or registered units.

Ms. Wight said she did a walking survey and found there are two second units in Ms. Barker's block. Across El Cerrito Blvd. the houses appear to be single family. The lot at 1123 Sir Francis Drake Blvd. apparently has a small one room second unit while the rest appear to be single family.

Chairman Israel asked if a second unit gets converted from an R-1 to a R-2 (duplex), does that free a unit up for second units? Staff affirmed.

Commissioner Sargent was concerned with the precedent associated with the special request here.

Commissioner Harle asked for clarification on the statement in the staff report about 7,000 sq. ft. being illogical. Staff said this was a statement from a Commissioner during a previous meeting. He said he observes a lot of houses in R-1 zones and R-2 zones along Sir Francis Drake which are developed single family. He sees people wishing to preserve this single family character. However, he sees this property owner wishing to preserve the property value because of a supposed loss in value. He is sympathetic with the applicant provided it does not set precedent and set off a domino effect and increase the traffic impacts. What can the Planning Commission do, how far can we go, in giving this applicant relief while protecting the single family character of Drake Blvd. We need Hadden Roths advice on what we are prohibited from doing. It also offers an escape from the second unit program which is our means of meeting affordable housing laws.

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Commissioner Ollinger expressed that it is very rare to grant a variance and rezoning due to economic stress. Perhaps what the Commission should be looking at is not changing the zoning but changing the requirement of the property owner having to live on the property. He stated that he is not necessarily advocating this, but maybe there's another way of looking at this. There would have to be a good reasons to grant such a variance. He wondered if a General Plan amendment would be necessary if the lot size were decreased to 7,000 square feet? Also, perhaps a size limitation could be placed on the second unit because he sees a second unit as being different from an R-2 property where the units are typically similar in size.

Commissioner Sargent encouraged staff to try to figure out another way, other than a zoning change to deal with this.

Chairman Israel agreed with his colleagues and was also sympathetic with the applicant and the transition on Sir Francis Drake Boulevard. He feels that if any change were to occur, it should be through a "planned" process rather than a "spot" process. The Commission is being asked to make a change for economic stress for a benefit that we created. We granted the "benefit" (second unit) and are now being asked to grant a "second benefit" by allowing duplex zoning. The only variance he would entertain is a change to the owner occupancy requirement of the second unit ordinance. He is not necessarily comfortable with this but would like staff to look at it particularly along Sir Francis Drake. What is the benefit to the Town? There needs to be a benefit to the Town if such a variance is to be supported. If we had second units or duplexes within this area, he might be more inclined to support because of the limited physical change.

M/S Israel/Sargent to continue 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. This is continued to the meeting of November 6.

G. GENERAL DISCUSSION

There was no discussion.

H. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

Staff informed the Commission on upcoming appeals to the Town Council.

I. ADJOURNMENT

The regular meeting of the San Anselmo Planning Commission was adjourned at 10:30 p.m. to the next meeting on October 16, 1995.

ANN CHANEY