

**TOWN OF SAN ANSELMO  
PLANNING COMMISSION MINUTES OF NOVEMBER 18, 1996**

The regular meeting of the San Anselmo Planning Commission was convened at 7:30 p.m. in the Council Chambers by Commissioner Mihaly. Staff present was Planning Director Ann Chaney, Associate Planner Lisa Wight, and Assistant Planner Chip Griffin.

**A. CALL TO ORDER**

Commissioners' Present: Mihaly, Cronk, Duys, Harle, Wittenkeller  
Commissioners' Absent: Sargent, Israel

**B. OPEN TIME FOR PUBLIC DISCUSSION**

**C. CONSENT AGENDA**

1. MINUTES: November 4, 1996

2. V-9642 - Richard and Carol Scarce, 47 Prospect Avenue, A/P 6-181-11, Variance to build a 480 square foot, 2-car garage within 2' of the front property line (20' required). Garage will replace destroyed 230 square foot, 1-car garage. Garage will require widening the existing curb cut to 20' and excavation (cut) and deportation of approximately 17 cubic yards of dirt, on property located within the R-1 Zoning District.

M/s, Harle/Wittenkeller, to approve the consent agenda, with corrections to the minutes as submitted in writing.

Ayes: All.

Conditions of approval are as follows:

**47 Prospect Avenue:** 1. That the request for a variance be granted to construct a garage in accordance with the plans date stamped August 28, 1996, received by the Town of San Anselmo Planning Department. 2. Applicant shall apply for and pay all appropriate fees for building permits, plan checks and inspections. 3. This permit and each condition contained herein shall be binding upon applicant and any transferor, or successor in interest. 4. If construction is not commenced within one year from the date of final action, the permit becomes null and void. However, this discretionary action may be reviewed by the Planning Director for a maximum period of one (1) year provided the applicant places such a request in writing to the Planning Director showing good cause prior to the expiration of the discretionary action.

**D. WITHDRAWN ITEM(S)**

1. V-9635/U-9609 - Tamsel Hug, 15 Durham Road, A/P 5-205-10, Variance to do the following: 1) allow carport within 5' of side property line (8' required); 2) allow a second unit structure 4'4" from the southerly side property line (8' required); 3) allow 2 required parking spaces within the rear setback (20' required); and 4) a Use Permit to allow a second unit, on property located within the R-1 Zoning District.

**E. CONTINUED ITEMS**

1. Environmental Review/GPA-9601/Z-9601/u-9608 Russ Johnson, 12 Loma Robles and 750 Sir Francis Drake Boulevard, A/P 6-091-41, 770 and 760 Sir Francis Drake Boulevard, A/P 6-091-38, 754 Sir Francis Drake Boulevard, A/P 6-091-39, and 700 Sir Francis Drake Boulevard, A/P 6-091-40: environmental review; General Plan amendment to amend the land use designation from Limited Commercial to General Commercial; Zoning Ordinance amendment to amend the zoning from C-L (Limited Commercial) to C-3 (General Commercial) or to revise the list of allowed uses (Table 3A) in the C-L zone to permit a mini-mart food store. This request is being initiated by the Chevron Service Station owner in order to permit a mini-mart at that service station. CONTINUED TO 12/2/96

2. Town of San Anselmo - Ordinance Amendment - Approve ordinance language modifying the review process and standards regarding the current 8' side yard. Proposed language could allow additions to existing structures in residential zoning districts which do not meet current set back requirements through the Design Review process instead of the Variance process for new development within the 5' to 8' side yard set back area. CONTINUED TO 12/2/96.

3. V-9670/DR-9620 - Klaus and Ellen Werner, 26 Magnolia Avenue, A/P 7-212-35, design review of a second story bedroom addition to one apartment, first and second story window alterations, a first story garbage enclosure, and front yard parking area and driveway apron extension; and 2) a parking variance to continue to have 5 rear yard parking spaces substandard in width at 8' by 19', and 3 front yard parking spaces substandard in length at 9' by 15.5' (minimum number and size: 7: 9' by 19') (no additional living units will be created), on property located within the R-3 Zoning District. CONTINUED TO 12/2/96

F. PUBLIC HEARINGS

1. 40 Tomahawk Drive, A/P 177-250-63, Request by Laurence Bartone to amend or interpret the Quarry Mountain subdivision CC&Rs and Map to permit a driveway access across the private open space easement on 40 Tomahawk Drive. This property is located within the R-1-H Zoning District. The purpose of the driveway would be to access a single family lot located in the County jurisdiction (A/P 177-171-05) directly from Tomahawk Drive.

Ms. Chaney said this item is for information only. The draft easement document has been prepared and reviewed by the Town Attorney. The agreement will be routed to the affected parties for further review. A map is included that shows a conceptual plan of what the driveway might look like. At a subsequent meeting draft changes to the CC&R's will be submitted. This must be finally approved by the Town Council.

Commissioner Mihaly asked for an order of events in this process. He recalled a number of concerns, such as the escrow being clearly worded to protect all parties involved and that the unique circumstance of this exchange be clearly expressed. He realizes the Council is concerned about precedence and would like to minimize problems.

Commissioner Duys recalled that Commissioner Israel would like a square footage assessment of the land involved.

Commissioner Wittenkeller said he is unfamiliar with what litigation was involved with this item.

Ms. Chaney said the litigation is public information. Mr. Bartone felt he had the right for this access over the open space through the Quarry Mountain CC&R's. He sued and the judge ruled that Mr. Bartone had not followed the proper Town procedures by filing an application. If the appropriate application were to be denied, the judge said Mr. Bartone could go back to the judge.

Commissioner Wittenkeller noted that there is no author listed on the submitted drawing. There is information missing and there's no way to know who prepared it.

Ms. Chaney asked if there are any particulars that should be added to the drawing.

Commissioner Wittenkeller said he'd like the catch point for total slope and top of slope. Now that we have a concept plan, perhaps the area south of the easement might be included as part of the easement.

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Ms. Chaney said trees should be shown on the drawing, the height of retaining walls clarified, and driveway dimensions included.

Commissioner Mihaly said as many eventualities that staff can anticipate would be good to have included.

Jonathan Braun, Scenic, said he wondered if the Fire Department should review the planned turning radius to be sure there is enough room to turn around. He is also concerned that the Rusche's want to divest themselves of responsibility for maintenance of the property.

M/s, Duys/Harle, to continue this item to the meeting of December 2, 1996. Ayes: All.

2. U-9610/V-9643/DR-9622 - Glen Miwa, 333B and 335 San Anselmo Avenue, A/P 7-252-18, Design Review, Parking Variance and Use Permit for the expansion of Comforts Too occupying the adjacent space known as Sloats Florist. Design Review includes new windows, doors, awnings, signs and colors. Use permit is required for the proposed outdoor dining area along the sidewalk to include 8 tables (16 chairs) and to expand the sale of beer and wine to the new location. The proposed parking variance is for an intensification of use from retail floral to restaurant/deli. Variance V-9643 will supersede existing parking variance V-9217, issued for original Comforts Too Deli, on property located within the C-2 Zoning District.

Mr. Griffin presented his staff report. Comforts wants to expand into the store next door to the present Comforts Too. Exterior changes include relocating windows and doors and a low steel fence across the front. Interior changes include a horseshoe deli area. The applicant previously had an alcohol license approved by consent by the Planning Commission in 1982 for his restaurant that has since closed. There were no problems with this permit, and alcohol would be provided to complement the food service. The planned patio area (16 seats) constitutes an intensification of use. The rear lot has five parking spaces, three are for Comforts, which leaves them short six spaces. While there is a downtown parking shortage, the restaurant attracts mostly people who live or work nearby and don't require parking. Staff supports the parking variance. One sign is proposed above the front door and is within the ordinance. The color proposed is a light beige, white, forest green and dark brown. Regarding landscaping there are two trees in the rear that should be removed.

Commissioner Wittenkeller expressed concern about the narrowness of the sidewalk with the outdoor dining area. According to the drawing the sidewalk would go down to just five feet.

Glen Miwa, Applicant, said the intent of the railing is to keep the chairs from infringing on the sidewalk area. He said they sell very little beer and wine at lunchtime; they won't be serving dinner. They plan to remove the Cypress trees and restripe the parking lot.

Commissioner Wittenkeller asked how much of their business is takeout and if they do any catering.

Mr. Miwa said that right now 90% of their business is takeout. They do catering, and pickups and deliveries are in the rear. They will be implementing a delivery service in December to get lunch orders out to try to help with the parking problem.

Ms. Chaney said regarding the sidewalk, the property line of the building is not shown on the survey drawing. It looks like it is five feet. This meets the Americans with Disabilities Act requirements.

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Commissioner Wittenkeller said he is concerned with the installation of a fence right on the property line. He is also concerned with the right turn of the fence at the south end; people could walk right into it in a low light situation. A design modification could be helpful like a wraparound.

Commissioner Duys said she has no problem with the Use Permit for alcoholic beverages. She is worried about the parking variance and feels the Planning Commission should start studying this issue and planning for the future. Regarding design review, she feels a softening of the edge of the fence should take place. This is a great use of the space.

Commissioner Cronk said she supports staff's recommendation. She, too, would like the Commission to be proactive on the parking issue. She likes the railing the way it is and feels the problems could be solved with a tall potted plant.

Commissioner Harle said he supports the staff recommendation.

Commissioner Wittenkeller said the potted plant would work if it were maintained. He supports staff's recommendation.

Commissioner Mihaly said he supports the staff recommendation, adding the potted plant to help the corner.

M/s, Duys/Harle, to approve: 1. A Use Permit for on-site sale of alcoholic beverages (beer & wine) in expansion area. 2. Variance to reduce nine required onsite parking spaces to three. and 3. Design Review for exterior modifications due to expansion of existing business, based on color boards dated July 23, 1996. **Conditions of Approval shall be:** 1. That the request for a Use Permit, Design Review and Parking Variance be granted to expand the existing restaurant at 335 San Anselmo Avenue to occupy 333 B, in accordance with the plans date stamped September 23, 1996, received by the Town of San Anselmo Planning Department with the exception of the rear portion of the property. A revision shall be submitted prior to issuance of building permits providing: a) removal of Italian Cypress trees against rear of building, b) striping of parking lot behind the proposed Comforts to show three, 9' x 19' parking spaces with a marked area for the trash bin in the front of one stall, against the building. 2. All debris in the rear area shall be removed and general maintenance of the area shall be continued. 3. Applicant shall apply for and pay all appropriate fees for building permits, plan checks and inspections. 4. This permit and each condition herein shall be binding upon applicant and any transferor, or successor in interest. 5. If construction is not commenced within one year from the date of final action, the permit becomes null and void. However, this discretionary action may be renewed by the Planning Director for a maximum period of one (1) year provided the applicant places such a request in writing to the Planning Director showing good cause prior to the expiration of the discretionary action. Ayes: All.

3. V-9639 Bill Federighi, 216 San Francisco Blvd., A/P 6-011-06, a 5' east side yard variance to construct a storage shed within 3' of the east side property line, on property located within the R-1 Zoning District.

Ms. Wight presented her staff report. The applicant has constructed this storage building within 3' of the east side property line. Staff is unable to make a finding of special circumstances because it would be possible to put it within the setbacks. She recommends denial and relocating the building to within the setbacks as this is a big lot.

Commissioner Wittenkeller asked if this house was recently remodeled.

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Eric Layton, Mr. Federighi's Architect, said the original parking structure was in bad condition as was the house when purchased. The parking structure had to be removed and this structure replaced it for storage only. The proper permits were obtained for the house remodel, but the applicant didn't realize he needed permits for the storage shed. The shed is on piers and could be moved if necessary.

Commissioner Duys asked about the parking requirements. Ms. Wight said the requirement is two spaces.

Mr. Layton, Architect, said his client didn't realize this was a nonconforming structure. His client would like the variance because moving the structure would require changing landscaping and sacrificing his backyard. The affected neighbor is supportive of this variance.

Commissioner Wittenkeller asked if there have been any responses from the neighborhood noticing. Ms. Wight said there have not.

The public hearing was closed.

Commissioner Cronk said she is in favor of granting the variance as the affected neighbor doesn't object and it seems like a logical place to put the shed.

Commissioner Harle said he supports the staff report. He cannot see the first finding of special circumstances.

Commissioner Wittenkeller said he supports the variance.

Commissioner Duys said she would like to support the variance. The creek bed limits the availability of space for locating such a structure which could provide special circumstances. In addition just about every house on that side of the street has a similar structure close to the property line.

Commissioner Mihaly said he supports the staff recommendation, but he could support the variance based on special circumstances.

M/s, Duys/Wittenkeller, to allow a variance based on the fact that the existing creekbed in the back of the property limits the usable space in the backyard. Conditions of Approval: 1. That the request for a variance be granted to retain a shed in accordance with the plans date stamped June 25, 1996, received by the Town of San Anselmo Planning Department. 2. That the applicant shall obtain from the Building Department any applicable permits within 30 days, which would be December 18, 1996. Ayes by roll call: All.

4. Z-9602 - Environmental Review and Proposed Amendment to the Second Unit Ordinance. This amendment would waive the current on-site residency requirement of property owners of use permit-approved second units located on property with Sir Francis Drake Boulevard frontage in the R-1 (Single Family Residential) zoning District. Application initiated by Shelagh Kew Barker at 1108 Sir Francis Drake Boulevard.

M/s, Wittenkeller/Duys, to continue this item to December 2, 1996. Ayes: All.

5. V-9644 - Kevin McGee, 5 Jordan Avenue, A/P 6-166-04, Variance to reduce the parking space length within a garage from 19' (required) to 16'6" to accommodate a new interior addition, on property located within the R-1 Zoning District.

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M/s, Harle/Cronk, to continue this item to December 2, 1996. Ayes: All.

**G. GENERAL DISCUSSION**

Wittenkeller asked about a memo from Mr. Griffin on the 15 Durham second unit. Ms. Chaney said a land division request off Santa Barbara was initiated in the past to build a new home. It was denied because of the narrowness of the driveway and the number of homes accessing it. There are several legal non-conforming second units back there. From an emergency access purpose Durham may be the appropriate access for the lot in question.

Ms. Wight said since 1963 a second unit must be continuously used in order to be legal nonconforming. Regulations were enacted in the early 70's to try to control second units.

Commissioner Mihaly said that if the Commission were to pursue the downtown parking issue, we would probably have to establish a parking district and have an appropriate fee imposed. What is the mechanism staff would recommend to transmit this concern to the Town Council? Ms. Chaney said she would suggest this be brought up at a second joint meeting between the two groups. She hopes it will be December 4.

Commissioner Mihaly said this would be a large investment of staff time and money and shouldn't be undertaken without Council support. He feels the Town Council should hold a public workshop first, then refer it to the Planning Commissioner if it seems like a possibility.

Commissioner Cronk said she agrees that we should get Town Council support, but the Commission should get started with getting a feeling from the Town Council.

Ms. Chaney said she talked with Andronico's about the old Unocal lot. Andronico's has drafted a plan but Unocal is moving slowly. She has Andronico's plans and PG&E will not let them their property cross for access.

**H. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL**

Ms. Chaney said the appeal of the Planning Commission's decision on the Sir Francis Drake Boulevard property adjacent to the Willow Glen development was continued to November 22, 1996.

**I. ADJOURNMENT TO December 2, 1996.**

M/s, Harle/Wittenkeller, to adjourn at 9:20 p.m. to the meeting of December 2, 1996. Ayes: All.

Debbie Stutsman