

**SAN ANSELMO PLANNING COMMISSION
DECEMBER 3, 2001**

CALL TO ORDER

Commissioners present: Chair House, Vice Chair Jochum, Commissioners Harris, Morita, Wittenkeller and Zwick

Staff present: Interim Planning Director Wight, Town Attorney Roth and Planning Technician Chambers

OPEN TIME FOR PUBLIC EXPRESSION

None

PUBLIC HEARING ITEMS

CONSENT AGENDA

1. **MINUTES – November 5 and 19, 2001**

M/s Harris/Jochum and passed (5-1 Abstain: Wittenkeller), to approve Consent Agenda.

REGULAR AGENDA

1. **V-0144/DR 0143– Eric and Kelley Warner, 120 Woodland Avenue, A/P 7-221-12, flatland design review to reconstruct more than 50% of the existing 1,596 square foot dwelling and expand with a 349 square foot first story addition and a 319 square foot second story addition within 6'4" of the west side property line; and a setback variance for the existing garage to remain within 3.5' of the east side property line and within 4.5' of the rear property line (Code: 20' setback when 50% of the existing dwelling is replaced) located within the R-1 Zoning District (Staff person: Faw)**

At the request of the applicant this item has been continued to the meeting of 12/17/01.

2. **SR-0101 – Bob Chapman and John Marchant, 780 Sir Francis Drake Boulevard, APN 6-091-41, sign review of a freestanding sign and planter to be erected on subject property at the intersection of Loma Robles Drive and Sir Francis Drake Boulevard, and a sign on the building, located within the C-1 Zoning District. (Staff person: Wight)**

Ms. Wight presented the staff report.

The applicants stated that they were available to answer questions.

Commissioner Wittenkeller stated that the lighting for the sign should be shielded so it will not shine into oncoming automobiles or pedestrians.

Commissioner Jochum added that the lighting should be low wattage and specified.

Commissioner Morita stated that she would like the sign lowered because the current height is a distraction and draws driver's attention to it.

In response to Commissioner Morita, Ms. Wight explained that it is against the Code to allow private signage on public property between the two driveways. She has contact the Police Department regarding the safety issues but has not received a response back yet.

Bob Chapman, applicant, stated that they raised the sign so vehicles can see under it.

Commissioner Morita suggested moving the parking space back on Sir Francis Drake Boulevard and then lowering the sign. Chair House responded that she did not think that was feasible because it would remove a parking space for the apartment building.

Commissioner Harris asked if they would be willing to change the red color. Mr. Chapman responded that it is really burgundy and the proposed colors, although not as accurate as they should be, have been their business colors for years. He presented a business card that more closely indicated the colors they propose.

Commissioner Zwick stated that he would love to know exactly what the sign will look like and what the lighting would be before he can make a decision on the project. However he likes their business cards better than the colors on the sample. He noted that he has no problem with the height or size of the sign.

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Ms. Wight stated that there was some resistance by the applicant to prepare a sign because of the cost and the colors proposed were submitted late Friday.

Carla Chapman, co-applicant, explained that they have a sign on Miracle Mile that has been there for the last twelve years. The sign before the Commission would be the same with the exception of the removal of the roof.

M/s Zwick/Jochum, and unanimously passed (6-0), to continue the application to the meeting of December 17, 2001, to allow the applicant an opportunity to provide a scaled drawing of the pole that holds the sign, and the sign, and the lighting and wattage proposed.

3. **DR-0145/V-0146 – Rudolph and Catherine Rehm, 45 Sais Avenue, APN 006-074-34 & 35, flatland design review of a proposed 1,100 square foot second story addition and to raise the garage roof 2'; and an after-the-fact setback variance for a hot tub to remain within 3' of the east side and rear property lines (Code: 8'), on property located within the R-1 Zoning District. (Staff person: Faw).**

Mr. Faw presented the staff report, noting that staff can support the application.

Commissioner Harris asked about the condition of approval that requires merger of the two parcels, to which Mr. Faw explained that only one parcel is a buildable site and therefore it would be clearer to merge the parcels.

Babac Doane, architect representing the applicant, stated they took privacy into account for the rear neighbors.

Rudolph Rehm, owner, stated that he talked to the neighbors and although they have not seen the plans, they have stated they have no problem with the application.

Commissioner Jochum stated that it is remarkably low for a second story addition and can support the project as proposed,

Commissioners' Zwick, Morita, Harris and Wittenkeller could also support the project.

M/s Jochum/Zwick, and unanimously passed (6-0) to approve the application based on the findings and conditions as set forth in the staff report.

Chair House advised all parties of interest of the ten-day appeal period.

4. **U-0113 -Sprint PCS, 820 Sir Francis Drake Boulevard, APN 006-061-13, use permit to install three antennas on the building with equipment, located on property located within the C-3 Zoning District. (Staff person: Wight)**

Ms. Wight presented the staff report, and distributed a memo that staff received from the applicant's attorney tonight

Town Attorney Roth asked what the rationale was by the Commission for the two-year policy. Commissioner Harris responded that he did not want the Town to become an antenna farm and he would like to get voluntary cooperation from the applicant to share in that vision. Town Attorney Roth responded that he was not sure if there is a valid legal reason to require it. Commissioner Harris added that another issue is whether or not the applicant can demonstrate the need for additional antennas because there is a gap in coverage.

Regarding the objection to Condition No. 6, Town Attorney Roth stated that there was not much of a difference in time between 18 months and two years. Regarding the last sentence of Condition No. 9, he stated that he does not think the FCC had this in mind and is not certain as to the legality of imposing this condition. He asked the applicant if there is a gap in coverage, noting that if there is a provider which provides coverage, then there is no legal right for another provider.

Talin Aghazarian, Sprint representative, noted that the 30" antenna is going in an enclosure and the equipment will be screened with a 6' fence. With regard to alternative locations, they looked at the Isabel Cook Center and Log Cabin but were not able to obtain the sites. They have also looked at the Red Hill School, which they could not get, so this site is necessary.

Kerry Horton, legal council for Sprint PCS, stated that they object to Condition 5 on the grounds that if the demand for their service increases, they might have to look for another site. In addition, they question the validity of asking the applicant for not developing for a period of time. She questioned what other commercial enterprises have been asked that.

Town Attorney Roth responded that different businesses have different impacts. Commissioner Harris added that the previous applicant offered to do it willingly.

Ms. Horton said that Sprint PCS objects to Condition 5 for the reasons stated. With regard to Condition 6, the precedent set is usually two years. The rationale for decreasing the review

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period for MetroPCS was because it was a third carrier on a building and therefore more justified. In this case, Sprint is the only carrier on the building and a two-year review should be imposed.

In response to Town Attorney Roth, Ms. Horton explained that the burden between 18 months and two years is the cost. With regard to Condition 9 – Sprint objects to this because Sprint cannot continually be updating its site on a very subjective standard, which is set out by this condition. They would not even have a right to the use if they had to change the standards every 18 months to a particularly vague standard. Also, the area of health has already been pre-empted by the FCC standards and it is not up to the town to impose stricter standards. Sprint, therefore would like to have the last sentence removed.

In response to Commissioner Harris's question about pre-emption, Ms. Horton stated that the FCC already set the standards and it is not within the local jurisdiction's authority to set more rigid standards; this condition allows for that and would probably be unenforceable.

Commissioner Zwick stated he does not understand why Sprint wants more access than they currently have.

Mohammed Alam, frequency engineer representing Sprint, explained that Sprint does have decent coverage along Sir Francis Drake Boulevard but does not have reliable coverage inside the buildings.

Ms. Horton responded to Attorney Roth's comment regarding the question about coverage (Omni Point vs. New Township), stating that there is a split decision in the Circuit Courts as to whether coverage by one carrier is sufficient to cover one area thereby lessening the need for other carriers in the area. However, it is Sprint's feeling that technology driven environments like California and Washington, that line of reasoning would not be followed because it is contrary to the Telecommunications Act that was enacted to facilitate the growth of wireless technology. That line of reasoning creates a monopoly by one carrier and decreases free enterprises.

Town Attorney Roth responded that Ms. Horton presents a strong argument.

In response to Commissioner Zwick's question regarding the site status survey spreadsheet indicating existing and proposed sites, Ms. Aghazarian responded that it was prepared in July 2000 and the 820 Sir Francis Drake site is not on it however this site is a replacement for the site at 921 Sir Francis Drake Boulevard. She was not certain how many are on the 330 Sir Francis Drake site or how many are proposed. There are three antennas at 1509 Sir Francis Drake Boulevard and 7 are proposed; however, they have no intention at that time to increase the amount that are there now.

In response to Commissioner Harris, Mr. Alam explained that all three antennas could be in a cylinder 4'x3'x3' box and for every 4-ft the antennas are moved back, the height will have to increase by 1'.

In response to Commissioner Harris, Mr. Alam explained that they do not use the very short antennas because they could interfere with other antennas. If flush mounted to the building, the building is very short and they would not get the coverage they need.

Commissioner Jochum questioned if a parapet could be placed in front of the shorter antennas. Mr. Alam responded that the antennas are now 30", whether they are grouped or separated, could have a parapet around it.

Commissioner Morita stated that people in their home could use a hard-wired phone and there is a petition signed by 300 people who do not want to be exposed to the antennas in their homes. Therefore it seems a little misplaced to her for their request based on what the neighborhood it objecting to. Mr. Alam responded that it is also the commercial businesses, not just the residential customers who need this. Also, in case of emergencies, you can use wireless phones when landlines may not be used.

Commissioner Morita said that Mr. Hemmett's registration seems to be expired in June of this year. Bob Wellard, Hemmett & Edison, responded that the Town can be assure that the license has been renewed, however the date of the report was March 14' 2001, citing page 3 of 3 that has a signature and a stamp with his current registration.

Jane Hall, 31 Nokomas Avenue, stated that it is time to require something of the cellular companies and the landlords that sponsor them. The current FCC regulation is based on old data; many companies have developed more stringent standards. There are no federal oversights with radiation levels and no long-term statistics on what the negative health risks are. The Town needs a moratorium on cell sites. The current ordinance does not begin to address the additional antennas on Sir Francis Drake or this application.

Christine Craig, 58 Madrone, represents some neighbors who are concerned about the health issues, as well as Sal Trentino a merchant located at 800 Sir Francis Drake Boulevard, who states the radiation from this proposed transmitter site will interfere with his electronics business.

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Cindy Gueff, 51 Austin Avenue, said that a member of the Town Council has stated that Sprint has been refused locations of open space land, Isabel Cook and the Town Hall building. They have received approval of 1509 Sir Francis Drake Boulevard. The Councilmember has heard Sprint say that they would not need any more sites than what they have on 1509 Sir Francis Drake. There are 598 proposed antennas in Marin County. Apparently Europe operates a single platform and works on that platform; that does not happen here. A separate review of the Hemmett & Edison report was done and the results indicate that out of approximately 5 pages, only six sentences differ on each report. They reported on Geneva Hall, while the formula may be correct, it cannot be determined because the calculations cannot be verified. She would like a peer review done again.

Helly Robertson, 38 Austin Avenue, wanted to know what proliferation was by the Commission's definition? She feels that 45 antennas are enough. She would like this application to have the same conditions as those of the last application. She wants to know if the Town has any authority to remove the antennas if the Town finds them to be hazardous? Are people within 300 feet notified? Ms. Wight affirmed.

Pete Petersen, 69 Bella Vista, asked how many cell sites have had design review at the Planning Commission level because it is hard to do future design review of buildings with the antennas in place.

Patrick Haven, 36 Luna Lane, was concerned about the health issues and also lives very close to the auto body that has 5 antennas now.

Bob Wellard, Hamett Edison, agreed that the safety standards in Italy are very strict and much more restrictive than the US however this site would also comply with the Italian standard. The frequency being used by cellular carriers was taking back to the broadcasting system in 1980's. These frequencies and emissions have existed since the UHF television in the 1950's. Low level exposures were done in San Francisco for the Sutro Tower, approximately 10 years after it was built. The study was done more than once and the results were negative. The Town of San Anselmo has had a town-sponsored forum to discuss frequency levels in the past. Regarding his firm and the results of the reports – often, for reasons of aesthetics or RF engineering, antennas pointed in a same direction will be added or combined in some way; often, in the case where an antenna is added, the second antenna receives only so it does not contribute anything because it does not transmit to the radio frequency environment. With regard to the concern about interference for the person working on radios, unless he is doing some testing on the same frequency as Sprint would be, interference is not a likely occurrence.

Commissioner Jochum said that the previous Kragen application at this same location was asked to redesign the roof structure with a parapet. He questioned whether the antennas would work with a parapet. Mr. Wellard responded that they would use transparent material; anything else would kill the signal.

Commissioner Zwick said he was at a public hearing in Fairfax on a similar subject and the antennas were completely hidden on the movie theatre, using RF transparent material and there is no reason San Anselmo should accept anything less. The Town ordinance states we should protect from visual blight; however, what we keep seeing are the strange shapes; why not hide them in the existing front parapet, replace it with transparent materials. If it is not as tall as the cellular companies want, then it will just not penetrate as far into buildings as they would like. He is comfortable with making that as the standard to uphold; that seems to be the standard the Town Council has asked the Commission to look at and he is comfortable proceeding along those lines. Therefore, he would require them to use RF transparent materials to make it look like the building. With regard to potential health effects, it is not within his purview to discuss. With regard to the amount of broad range of telecommunication services to provide high quality telecommunications to sufficiently serve the community, he thinks the community says that the current amount of communication is sufficient; it is Sprint that says it is insufficient.

Commissioner Morita stated that she concurs with Commissioner Zwick, noting that as Planning Commissioners, they take into consideration the good faith efforts of any applicant in working with the town and for the needs of the community. The Commission has seen applicants come forward with applicants that want to be cooperative and work with the Town; this applicant does not want to do that and that affects her opinion about working with them.

Commissioner Jochum said that with regard to the fax tonight from Sprint regarding the various conditions of approval with respect to Condition No. 5, in the discussions with MetroPCS he argued against that condition of eighteen months because the Commission can deny the project and there does not seem to be a precedent to deny it. Once the various carriers come to single buildings, the Town should require a review with all the companies and perhaps come up with a schedule that should spread out over a period of time. With regard to the last comment, he feels is unenforceable. His problem with this project is the concern about visual blight. During the Kragen proposal he advocated cleaning up the roofline and hiding the equipment on the roof. With the building in transition, he does not like anything before him with regard to design. He has a problem that they are not beaming a part of the architecture; if it takes RF blind materials, so be it.

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Commissioner Wittenkeller stated that he has not heard any benefit to get cell service inside of buildings. Any kind of trade off is not worth it.

Commissioner Harris stated he is not sure he has seen a case by the applicant that they have a gap in coverage. He is considering denying the application on the OMNI case but would however, explore the antennas on the back of the building. For example, RF screening could blend in with the trees in the background.

Chair House said that she had trouble with the previous application for Kragen because the building was very unattractive; just sticking a box on top will not help the building to be more attractive and she cannot support it as proposed.

M/s Harris/Wittenkeller, and unanimously passed (6-0) to continue the application to the meeting of January 7, 2002.

D. WORKSHOPS

Consider Scheduling Public Hearings for the following:

1. **Possible amendments to the Zoning Ordinance: Development standards related to additional limitations on height, floor area ratio, and setbacks for residential properties above 150 msl elevation (Commissioner Zwick).**

Commissioner Zwick discussed the item.

Chair House said that this language would be good to help a novice to understand the codes.

Fred Divine, architect, stated that it is always helpful to be very clear. He cited the 41-43 Tomahawk property that he represented, noting that if they had a clear understanding of what the Town wanted in the very beginning, the process would not have been so frustrating.

Commissioner Harris commented that the wording change seems to give more discretion to the Commission as well as applicants.

Commissioner Jochum commented that some of the wording seems to work against the applicant.

Commissioner Zwick stated that he will continue to work on refining the language and come back with more wording.

Ms. Wight stated that some of the information needs to be placed in a table; it can perhaps be put in Table 4E, footnote 2.

Chair House asked if a house that could be viewed from across the valley should be included. Ms. Wight responded that low visual profile should be defined.

Commissioner Zwick said he would provide some wording for "low visual profile".

This item was continued to a future meeting.

2. **Possible amendment to the Zoning Ordinance: to permit accessory residential garage structures on undeveloped, contiguous legal lots of record within the residential districts (staff person: Wight).**

House said she would like to keep the lots separate.

Commissioner Zwick felt that accessory structures could be approved as long as they meet the intent of a dwelling but a property should be merged if they want to place a garage on undeveloped land.

Commissioner Harris said he would want the ability to review the design.

3. **Possible rezoning of the properties between 21 and 245 San Anselmo Avenue from C-3 (General Commercial) to C-2 (Central Commercial) (staff person: Wight).**

Commissioner Zwick suggested an overlay zone so a parking variance would be allowed if they provided housing. He suggested making a list of what the development possibilities versus what is there now and what we envision; look at the FAR possibilities.

Mr. Divine said his interest is due to a project on San Anselmo Avenue. He wants to get a good project in that area for the town and his client.

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Commissioner Wittenkeller suggested staff review old documentation to determine what the reasoning was for the zoning. He is interested in seeing a live/work mixed use potential that can be built into the zoning change.

Commissioner Harris stated that the property owners affected should go forward with their application and the Commission can consider a variance.'

E. GENERAL DISCUSSION

None

F. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

The following items/appeals are before the Town Council:

- 125 Redwood
- 405 Sequoia
- 330 Metro PCS
- 647 San Anselmo
- 24 Knoll Road
- 132 Humboldt

G. ADJOURNMENT TO REGULAR MEETING ON MONDAY, DECEMBER 17, 2001.

The meeting was adjourned at 10:18 p.m.


**BARBARA CHAMBERS
PLANNING TECHNICIAN**