

**SAN ANSELMO PLANNING COMMISSION  
MINUTES OF NOVEMBER 7, 2005**

**A. CALL TO ORDER**

**Commissioners Present:** Chair Zwick, Vice-Chair House, Freeman, Harris, Krebs

**B. OPEN TIME FOR PUBLIC EXPRESSION**

None.

**C. CONTINUED PUBLIC HEARING ITEMS**

1. DR-0528 /U-0515 - Verizon Wireless on behalf of Seventh Day Adventist Church, 1509 Sir Francis Drake Boulevard, APN 005-153-03, 1) Design Review of a new telecommunication facility at an existing church; and 2) Use Permit for the installation and operation of communication equipment in the R-2 zoning district (Medium Density Residential). The equipment consists of ground-mounted equipment at the rear of the church and three panel antennas screened behind a false roof chimney. (contract planner: Vazquez) **CONTINUED TO 11/21/05**

**D. PUBLIC HEARING ITEMS  
CONSENT AGENDA**

1. Minutes – October 17, 2005 – **CONTINUED TO 11/21/05**

**REGULAR AGENDA**

The Commissioners voted to change the order of proceedings.

2. UP-0513/V-0531/DR-0526 – Alletta and Ted Bayer, 32 Elm Avenue, APN 007-053-01, Use Permit to demolish an existing 1,860 square foot single family dwelling; Variance for retaining walls varying in height up to approximately 5 feet within  $\pm 3.5$  feet of the north side property line and up to approximately 5' in height within 11 feet of the front property line to construct a new driveway (Code: 8' and 20' respectively); and, Flatland Design Review for the second story of approximately 1,846 square feet (in conjunction with a new single family dwelling of approximately 3,756 square feet and garage of approximately 420 square feet). (For information, project would ultimately require from the Public Works Director a revocable encroachment permit for a portion of the retaining wall to be located in the right-of-way (off pavement) and a permit for the removal of 3 heritage trees), located within the R-1 zoning district. (staff person: Chambers)

Planner Chambers introduced the staff report. Ms. Chambers noted the changes that have been made since the previous hearing.

Daniel Krebs joined the meeting at 7.10pm.

Ted Bayer, applicant, passed materials to the Commissioners. Mr. Bayer explained in further detail the changes they have made to the house and garage. He said that the garage and studio have been reduced in size and pulled back from the side property line. Furthermore, the retaining walls have been reduced, and he presented photographs of other retaining walls on Elm Avenue to illustrate his point that tall retaining walls exist in the area.

Michael Sands, architect for the project, said that they have tried to respond to all the points raised at the last meeting.

In response to Chair Zwick, Mr. Sands explained why it is not possible to lower the retaining wall by 1 ft in order to render the variance unnecessary. He said that the stairwell would need to be redesigned, which could create a third-story that would then need a variance. Furthermore, Mr. Sands said that the effect of the wall could be mitigated with vegetation, although he noted that a landscape plan had not been submitted.

Commissioner Harris discussed the option of moving the garage to the south side of the property to solve the issue of a long driveway and large retaining walls.

In response, Mr. Sands said that the option had been studied but discarded for the reasons of creating too much grading and mass, and that the Public Works Director was not in favor of this plan. Mr. Sands said that his clients require an attached garage.

Mary Ann Marsili, 26 Elm Avenue, is concerned about drainage, and she requested that a drainage study be undertaken. Furthermore, the structure is still too large and it will loom over the neighboring properties.

David Baker, 25 Elm, said that the neighbors' concerns have been ignored and that the applicants appear to be designing a project that has the least impact on themselves. Mr. Baker is also concerned about drainage.

Perry Carrubba, 28 Elm Avenue, said that they are happy that the design has changed, but the story poles indicate that the light into their kitchen will still be affected. Mr. Carrubba would like to ascertain

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from a drainage plan that the new development will not affect their drainage, and he is further concerned that mature trees have been removed from the property. He said that a 4' retaining wall at the front will not hold up the hill.

Sandra Tether, 28 Elm Ave., gave materials to the Commissioners, and she noted that Staff is still unable to make findings for the project. Furthermore, the house has been scaled down by a small amount, and it remains too large and out-of-character with the neighborhood.

In response to the neighbors' comments, Mr. Bayer said that a variance would be required if the garage were built at street level because it would encroach upon the front setback. Furthermore, extensive excavation and a large retaining wall might be necessary if it were built on the south side of their property. The property is steep and retaining walls are necessary.

Mr. Bayer said that there are existing drainage problems, which are not connected to their project. He noted that they have a large lot and that they wish to minimize excavation. Furthermore, Mr. Bayer said that wherever the garage is built, there will be some impact on the neighbors.

In response to Chair Zwick, Ms. Wight said that it appears that it is possible to lower the house in order to render the variance unnecessary, but that the applicants do not favor this option.

Ms. Chambers noted that a height variance is also needed at the front for the retaining wall.

Chair Zwick noted that the house is less than the allowable size for the lot, but that it is difficult to make findings for the variance for the wall. Given the size of the lot, Chair Zwick suggested that it should be possible to design a project that does not require a variance. Furthermore, the house appears to be large because it is set on an up-hill slope and it stretches the width of the property. He suggested that the mass could be reduced by cutting into the hillside. Chair Zwick noted that there are a wide range of houses in the area and that this is a large lot in the midst of smaller lots, and thus a balance needs to be found. He also suggested that a landscaping plan be presented to the Commissioners, indicating how the retaining walls would be screened.

Overall, Chair Zwick advised the applicants that there appear to be ways to design a project that did not require a variance.

Commissioner Freeman expressed concern that the applicants do not appear to have responded to drainage issues. Furthermore, there are a number of neighbors who are concerned with the size of the house and he suggested that the applicants might mitigate these concerns. He does not support the current design.

Vice-Chair House does not believe the house will have a looming effect because it is set back from the street and the front does not present a flat facade. Furthermore, the size is consistent with the lot. She is in favor of a drainage study and landscaping plan to ascertain how the retaining walls will be screened.

Vice-Chair House believes that a finding for a variance could be made on grounds of special privilege because many properties in the area have retaining walls. Furthermore, the shadow study shows that the neighboring house is 25' away, which is a sufficient distance.

Commissioner Krebs is in agreement with the other Commissioners who would like a drainage report. He noted that the Commissioners have limited powers in restricting the size of the house because the lot is large. Also, he believes that special privileges might exist for the variance, but he would encourage the designer to change the design to render the variance unnecessary.

Commissioner Harris said that the house is attractive, but that he would have liked the modifications to be more significant. Commissioner Harris noted that the Director of Public Works usually oversees drainage projects and that he would like confirmation that a problem exists before asking the applicant to take further action.

With regard to the variance, Commissioner Harris does not believe that special circumstances exist that would entitle the owners to a variance. The garage should be located where it has the least impact, and if the house were designed to be staggered up-hill, its large presence from the street would be reduced.

In conclusion, Commissioner Harris supports the staff report because he is unable to make finding for the variance.

Commissioner House and Ms. Wight discussed drainage plan requirements.

In response to Staff and the Commissioners, the applicants requested a 90-day extension on their project.

M/s Harris/ Krebs and unanimously passed (5-0) to continue the project to the meeting of December 5, 2005, when a drainage plan and landscape plan will be presented.

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2. ER-0501/PS-0501 - Joseph Maquire, 1535 Sir Francis Drake Boulevard, APN 005-153-01, environmental review (Mitigated Negative Declaration) and parcel split for: Lot 1: one single family dwelling; Lot 2: one single family dwelling; Lot 3: 4 townhouses, 4 workforce apartments and common parking area. (staff person: Wight)

Chair Zwick recused himself from the podium because he lives close to the project.

Planning Director Wight introduced the staff report and she explained the reasons that staff is able to support the project.

No-one from the audience wished to speak.

Commissioner Harris and Jim McDonald discussed the Homeowners' Association and their responsibility for the common areas.

In response to Commissioner Harris, Joe Maquire, applicant, said that the homeowner's dues for those occupying the affordable-housing units will be included in the amount of rent they can afford, which is based on percentage of income.

Ms. Wight noted that it will be clearly stated in the CCNRs, which is the reason that it is included in the Conditions of Approval for the Town Council.

M/s Harris/Krebs and unanimously passed (5-0) to approve the project with the findings and conditions as set forth in the staff report.

Vice-Chair House reminded the audience of the 10-day appeal period.

5. V-0534 - Micha Berman and Charol Morikawa, 8 Fern Lane, APN 007-015-01, 1) Setback variance to construct single story additions totaling approximately 135 square feet within 16'-10" of the southwest (rear) and 7'-0" of the northwest (fronting San Anselmo Ave) property lines (Code: 20' and 12' respectively); 2) setback variance to permit a wood lattice screen up to 7' in height within 7' of the northwest side property line (Code: 12') and within 12' of the southwest property line (Code: 20'); and 3) Setback variance for a 69 square foot shed with a maximum height of 9'-6" within 2'-7" of the southeast and southwest side property lines (Code: 8' and 20' respectively), located within the R-3 zoning district. (staff person: Chambers)

Planner Chambers presented a letter from a neighbor who supports the project. Ms. Chambers explained that findings of special circumstances have been made to support the variances, which she discussed in more detail.

There were no questions of staff, and no-one from the audience spoke for or against the project.

M/s Freeman/Krebs and unanimously passed (4-0) to approve the project with the findings and conditions as set forth in the staff report.

Vice-Chair House reminded the audience of the 10-day appeal period.

4. ER-0502/GPA-0501/PS-0502/Z-0501 - William F. and Barbara R. Geisler, 405 Redwood Road, APN 007-141-11, 1) initial environmental study; 2) General Plan amendment to change the designation of a portion of the property from Single Family Conservation to Single Family Residential; 3) Rezoning of a portion of the property from R-1 C (Single Family Conservation) to R-1 (Single family Residential); and 4) Parcel split to create one additional building site. The proposed new lot would be located in the northeast area of the property, north of the redwood groves and below an existing cabin, with a separate driveway access directly off Redwood Road. (staff person: Wight)

Planning Director Wight introduced the staff report. Ms. Wight noted that a decision is unable to be made this evening, for which she explained the reason. However, discussion would be helpful at this stage.

In response to Commissioner Harris, Ms. Wight said that the occasion for specifying the building envelope would be at the design review stage. If the property is rezoned to R1, then hillside design review would be necessary or a dwelling.

Commissioner Harris and Ms. Wight discussed zoning categories in relation to this lot. The lot was thought to be over 2 acres when it was originally zoned, but it has recently been confirmed that the lot size is 1.84 acres.

Commissioner Zwick and Ms. Wight discussed R1 and R1H zoning further, which require a one-acre lot.

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In response to Commissioner Freeman, Ms. Wight said that the property cannot be grandfathered into a different zone.

Commissioner House is concerned that approving this application could set a precedent, because the situation concerning other lots in the area is similar. She thought that the applicants could present data concerning other lots that have the same acreage and slope.

In response Ms. Wight said that she had not studied R1H lots and Ms. House suggested that the applicant should look into the matter.

Bill Geisler, applicant, explained that they designed the project when they thought that they had a lot that was larger than two acres. However, he hopes that they might pursue their project based on their circumstances being unique.

Mr. Geisler explained the project in more detail. He said that they would be willing to agree that an open fence, only, could be erected, and that the new house must be no larger than 2,000 sq ft. Furthermore, there will be no significant retaining walls; there will be plenty of parking and the house will not overlook another property. Mr. Geisler confirmed that the redwood groves would remain on their property, which they carefully maintained.

In response to Chair Zwick, Ms. Wight discussed the allowable size of a legal second unit.

Commissioner Harris and Mr. Geisler discussed the R1C situation further, and whether or not Mr. Geisler would have benefited had the property not been designated an R1C zone.

Marc Demian, 43 Allyn Ave, said that this is a conservation lot that abuts open space, which will not be improved by another house. He said that the lot is zoned appropriately and that it was not originally purchased on the understanding that the lot could be split at a future date. Mr. Demian believes that drainage is also an issue.

Ken Demarest, 20 White Way, supports the project because the house will be modest and in keeping with the neighborhood. Furthermore, the new house will not impede hikers.

The prospective buyer, who lives at 403 Redwood Road, said that he plans to build a house he can afford and that it will not impact neighboring properties. He said that he would address drainage issues if necessary, but there are unlikely to be problems because there are no other houses nearby.

Chair Zwick and Mr. Geisler discussed the rental units on Mr. Geisler's property and the amount of space they occupy.

Commissioner House recused herself from the meeting at 9pm.

Chair Zwick said that it is difficult to make an exception to the rules and that a reason is necessary to grant the re-zoning of the lot. Perhaps the owner's house might be considered distinctive enough that it must not be torn down. Chair Zwick said that a reason is needed in order for him to support the project.

Barbara Geisler, applicant, spoke in support of their project. She said that the public has access to their land and that cars are parked on their property.

Vice-Chair House, Mr. Geisler and Ms. Wight discussed the land that the Geisler's must dedicate to the Town. Ms. Wight will ascertain the reason that the Public Works Director has designated the specific width of 15'.

Commissioner Harris would like to know the combined area of land that is owned by the Geisler's that they are considering donating, and the land that is currently used by the public. Mr. Geisler said that he would ask the surveyor to speak to the Commission further on the subject, but that it is approximately 13,000 sq ft.

Commissioner Harris said that legal findings need to be made, which cannot be made tonight. He shares Staff's concern that a precedent might be set with this project, in that other property owners might want to follow suit.

Commissioner Harris said that he appreciates the mitigating measures that are being proposed by the applicants in terms of the size of the house and its location on the new lot, and that the new house would be unobtrusive and consistent with the neighborhood. However, there appear to be no legal findings to approve the project.

Commissioner Harris and Ms. Wight discussed the rezoning findings.

Commissioner Freeman said that the drainage situation should be considered. However, soil would not need to be moved from the site, which thus negates the need for heavy trucks to drive up and down Redwood Road. He would like to approve the project if the findings could be made.

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Commissioner Krebs said that drainage is an issue, although there does not appear to be a problem. He is concerned that a precedent could be set by allowing a smaller lot to be created.

M/s Freeman/Harris and unanimously passed (4-0) to continue this item to the meeting of December 5, 2006, when a surveyor will be present and information on Redwood Road will be provided.

**E. ITEMS FROM PLANNING COMMISSION**

In response to Commissioner Harris, Ms. Wight discussed a street banner that had been erected in town.

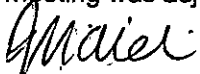
In response to Commissioner Harris, Ms. Wgith said that the moratorium prevents approval of signs and she explained what is allowed in the meantime.

**F. ITEMS FROM STAFF**

The Redhill Park project will be heard in December.

**G. ADJOURNMENT TO THE NEXT MEETING OF NOVEMBER 21, 2005.**

The meeting was adjourned at 9.35pm.



Joanne O'Hehir  
Sr. Admin. Services Assistant