

**SAN ANSELMO PLANNING COMMISSION
MINUTES OF NOVEMBER 6, 2006**

A. CALL TO ORDER

Commissioners Present: Vice-Chair Krebs, Harris, Schinner, Sisich, Zwick
Commissioners Absent: Overberger

B OPEN TIME FOR PUBLIC EXPRESSION

None.

C. CONTINUED PUBLIC HEARING ITEMS

None.

D. PUBLIC HEARING ITEMS

CONSENT AGENDA

1. Minutes – October 16, 2006

M/s Harris/Zwick and unanimously passed (5-0) to approve the minutes of October 16, 2006 with amendments.

REGULAR AGENDA

2. U-0623/DR-0626 - Pat and Gary Phillips, 70 Scenic Avenue, APN 007-054-15, Use Permit to demolish a single family dwelling; and Flatland Design Review of a 1,124± square foot second story in conjunction with the construction of a new 2,389± square foot single family dwelling located within the R-1 zoning district. (consultant planner: Vazquez)

The Planning Director introduced the staff report. Ms. Wight explained why a use permit is necessary, and said that flatland design review findings must be made. She noted that the trees slated for removal are not heritage size trees. Ms. Wight discussed site constraints, which include a narrow lot. She said that the Commission must decide whether light to neighboring properties will be unreasonably impaired because the shadow study indicates that the new development will cast shadows year round. Furthermore, changes to a bay window have been recommended by staff to alleviate privacy concerns, and that staff can make findings for a demolition permit. She said that a letter had been received by the owners of 15 Allyn Avenue regarding parking.

Nick Palter, architect for the project, read a brief statement from the owners giving reasons why their project should be approved, including the design, which they believe is in keeping with the neighborhood.

Ann Sangervasi, Scenic Avenue, said that they are adjacent neighbors and that their light will be severely impacted by the new development. She also spoke for another neighbor whose light will be affected. Ms. Sangervasi said they would prefer that the property be remodeled rather than demolished, and she raised health concerns caused by car fumes. They ask that the Commission supports the design changes recommended in the staff report.

Charles Snyder, Plumas Avenue, concurs with staff's recommendations. A lower roof height is needed, and parking should be allowed at the front of the property to avoid the problem of backing vehicles out of the long driveway.

Leslie Duditch, Scenic Avenue, said the story poles indicate that their back yard view will be obliterated by the new development.

Cathy Franklin, Scenic Avenue, said she has similar views on the size and bulk of the project, exhaust fumes, and impacts to neighbors' views. She expressed further concern regarding the plans.

Ada Fernandez, Scenic Avenue, agrees that the height of the house should be lowered and cars should be parked at the front. The house is overbuilt, too tall, and it will impact neighboring properties.

Marlee Sangervasi, Scenic Avenue, said her bedroom will be affected by vehicle exhaust fumes, and sun will no longer pour through the windows in the mornings. The project is too large and does not fit in with the neighborhood.

Scott Couture, Allyn Avenue, commented on the importance of parking. He said that difficult parking situations can be created by the need to meet zoning codes. In this instance, the architect has gone to great effort to provide conforming parking spaces for which much of the lot has been utilized. Further discussion is needed regarding the provision of conforming parking at the expense of design quality.

Gary Sangervasi, Scenic Avenue, said that the story poles have needed correction several times, and that he has not been contacted by the owner about the latest design, which he does not support.

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V J Snyder, Plumas Avenue, said she is concerned that the project will obscure their south western view, and that the colors are not part of tonight's discussion. She had not known the house would be so tall and is not sure which story poles are correct. Ms. Snyder agrees that the neighbors will be affected by car fumes because they are affected by the smoke from wood burning fireplaces.

Mr. Palter said he had tried to meet the setback requirements and still meet his client's wishes. He is willing to address the neighbors' comments, and believes that a variance would be necessary to provide a second parking space in the front, which would solve the problems of automobile noise and fumes. They have tried to comply with the zoning requirements, whilst other properties are not in compliance. Mr. Palter noted that they are under the height limit and that his clients wish for a second floor, although he noted that the height could be reduced. He said it is unfair to a new property owner to stipulate that their property should not cast a shadow, and he commented on the plans in response to public comments. He believes the story poles are now correct.

Planning Director Wight discussed the findings for flatland design review, and noted that the Commission needs to decide whether shadowing causes an unreasonable impact. Furthermore, since the lot is narrow, the applicants might wish to apply for a setback variance to request parking at the front of the property.

Commissioner Zwick and Ms. Wight discussed the parking further, and Commissioner Zwick commended staff on the report. He said that a number of choices have been offered to the applicant to solve the various problems, and he believes that the house is too large. He commented on the Zoning Code, and said that he would be inclined to support a variance if the house were smaller.

Commissioner Harris said that this is too much development for a small lot, and that the size of the home should be used as a basis for the findings for privacy and shadowing. He said that the house should be brought forward, rather than moved back, which he believes might solve shadow issues for the property at 84 Scenic Avenue. Furthermore, it appears that the applicants and neighbors have not held a meeting, which is not good practice. Commissioner Harris said the applicants are making an effort to comply with zoning laws and he does not believe that noise and fumes are enough, alone, to deny the project.

Commissioner Sisich supports the staff report, noting that an option exists to decrease the house size. He said that the Planning Commission has not insisted on a single story house, but this house needs to be redesigned, perhaps by pushing it back. However, the height of the house could be reduced by lowering the high ceilings and the roof pitch. The current design creates an unreasonable shadow.

Commissioner Schinner also supports the staff report, but he believes shadow problems could be mitigated if the second floor were shifted towards the front, and that the first and second floors could be reduced in height. Furthermore, he agrees with a previous Commissioner that the applicant should have met with the neighbors. He is also concerned that the Zoning Ordinance elevates parking to the detriment of the overall design. Given the narrowness of the lot, he would look favorably on a variance request. He suggested that the applicants use the suggestions in the staff report for guidance.

Vice Chair Krebs echoes the comments of the other Commissioners. However, an effort has been made to adhere to the Zoning Code that resulted in a long driveway. Although this may not be the best solution, he is not so bothered by the design. He remains concerned that other projects have needed to adhere to the Code, and they might not be able to support a variance to change the parking. He agrees that the applicants must meet with their neighbors, and he noted that the Commission is unable to comment on the colors.

Mr. Palter and Commissioner Krebs discussed the design, and Commissioner Krebs confirmed that the project must cast less shadow.

In response to the Planning Director, Mr. Palter agreed to a 90-day continuance of the project beyond November 29 to conform to the Permit Streamlining Act.

M/s Sisich/Zwick, and unanimously passed (5-0) to continue the project to the meeting of November 20, 2006.

**3. ER-0601/ZO-0601 - TOWN OF SAN ANSELMO, 525 San Anselmo Avenue,
Environmental Review (staff recommended Negative Declaration) and draft Sign
Ordinance. (staff person: Wight)**

Planning Director Wight introduced Randy Morrison, Attorney, who joined the meeting via telephone. Ms. Wight provided background information on the Sign Ordinance and the Sign Ordinance Committee. The purpose of the new Sign Ordinance is to protect the Town against legal action, whilst ensuring the right to the freedom of speech. She explained that staff made some amendments to the changes suggested by the Committee, in addition to adding their own amendments to ensure the language is legally defensible. She discussed various aspects of the new Ordinance, which includes building face changes, time limits on temporary signs and non-

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commercial signs. She noted that staff added a height maximum for non-commercial signs, for reasons she explained.

Mr. Morrison discussed the differences between temporary commercial and non-commercial signs, which are related to free speech and the First Amendment. He explained commercial and non-commercial speech must not be favored.

Ms. Wight noted that the Town cannot control signs that are attached to public school property. With reference to signs attached to parked vehicles, Ms. Wight explained the reasons this has not been included under the Sign Ordinance. Furthermore, the Ordinance does not specifically address murals and that they are considered to be signs, which are subject to height and size regulations. She explained why penalties for enforcement are not included.

In response to Commissioner Schinner, Mr. Morrison explained why murals should not be defined and the reason they should fall under signs. On private property, they would be regulated by size and height rules. He said that a public art project on Town property does not fall under this Ordinance.

Ms. Wight addressed non-residential use of signs that would not require a permit, for which she provided examples from the staff report. She also explained the process for those signs that require approval.

Ms. Wight went on to explain why aesthetics are not included, and she noted that non-commercial messages can be substituted for commercial messages but not the other way around. She also addressed Town-sponsored events, hand-held signs (that cannot be inflatable) and A-frames that cannot be put on public property. Projecting signs need an annual encroachment permit.

Ms. Wight discussed the Commissioners' role in tonight's proceedings, and Vice Chair Krebs noted that there were few members of the public in attendance.

Ms. Wight confirmed that her report identified the differences between the recommendations of the Sign Committee and the changes staff put in the draft Ordinance.

The public comment period opened.

In response to Scott Couture, a member of the Sign Committee, Ms. Wight confirmed that in Section 10.9.203 Message Substitution, graphic color has not been addressed, although she explained that the color could not be changed to fluorescent or day-glow.

Mr. Couture referred to an inconsistency of distance in 10-9.302 Definitions, Visibility Triangle, and 10-9.509 Intersection Visibility. Mr. Morrison confirmed that the distance should be the same, and Ms. Wight said she would consult the Public Works Director, who is still working on this aspect of the Code.

10-9.407 Disqualification - Mr. Couture is concerned that this implies that an applicant might be held liable for ensuring all other tenants in the building comply with the Planning and Building Codes. Mr. Morrison suggested that the wording in sub-section (b) be changed from 'located on the site', to 'located on the use'.

Mr. Couture expressed concern that schools would be prohibited from displaying signs, banners, flags, etc on street lamps and banner poles under Section 10-9.601. In response, Mr. Morrison explained that since the Committee convened, a case has emerged that provides some guidance to us. He believes that the Town can choose to sponsor or co-sponsor events to allow such signage to be displayed.

Vice Chair Krebs, Commissioner Sisich and Mr. Morrison discussed co-sponsoring political messages, and the Town Attorney said they have recently advised the Town not to take sides.

Jeff Kroot, Member of the Sign Committee, expressed concern that murals are prohibited. In response, Mr. Morrison said that murals provide legal difficulties because they are hard to define

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and could be construed as commercial billboards. However, it would be considered art if the Town wished to put a mural on its own property. He discussed the First Amendment.

Cindy Goefft, an advocate of the Schools Foundation and Ross Valley School District, said that they need as much messaging as possible. They would like access to the hub sign without the need to apply to the Town Council, which would be a burden. She noted that the School District might put signs on their property as they see fit. In response, Mr. Morrison explained the reasons it is necessary for the Town to introduce this guideline.

Commissioner Zwick and Mr. Morrison discussed Town-sponsored events, and the meeting was then closed to public comment.

In response to Commissioner Sisich, Ms. Wight said that the new Sign Ordinance will be applied to those signs that have been erected without permits, and that code enforcement will be undertaken. They discussed Redhill Shopping Center signage.

The Commissioners commented and made the following amendments on a page by page basis:

10-9.103, Scope – Mr. Morrison explained the meaning of amortization of signs, in response to Commissioner Krebs. In further response to Commissioner Harris, Mr. Morrison said that amortization is used differently for land as opposed to law.

In response to Commissioner Schinner, Ms. Wight explained the meaning of 'grandfathered in'. A sign would need to conform to code if 50% or more of the property were affected by construction. Mr. Morrison addressed the matter further.

Moving image sign – Commissioner Harris said that the language seemed surplus, and Ms. Wight suggested he make a note of the changes for staff.

Roof sign – Commissioner Schinner is concerned that this is not discussed elsewhere in the Ordinance, and Mr. Morrison suggested it be removed.

10-9.404 Notices – In response to Commissioner Harris, Ms. Wight and Mr. Morrison said that the wording is consistent with the Zoning Code and Town's Municipal Code.

10-9.405 (c) Application for a Sign Permit - In response to Commissioner Harris, who said that the requirements might be onerous for some applicants, Mr. Morrison explained that the Courts would require this amount of detail if an administrative decision were challenged.

10-9.407 (b) Disqualification – In response to Commissioner Harris, Ms. Wight suggested preceding the word 'code' with 'zoning' for clarity, in addition to other changes. She said that building permits are not issued if there are outstanding violations.

In response to Commissioner Zwick, the Town Attorney said that applicants for older buildings would not necessarily be in violation of the Sign Ordinance if ADA standards were not met.

10-9.409 – Commissioner Harris said that clarification is needed on what defines a larger project, and Ms. Wight said she would change the language.

10-9.419 Timely Decision – In response to Chair Harris, it was agreed by staff and the attorneys that this section should be amended to be consistent with the Permit Streamlining Act.

10-9.422 Time and Method for Appeal – In further response to Commissioner Harris, Mr. Morrison said that this section has been worded to match the administrative procedure for noticing.

10-9.424 Judicial Review – In response to Commissioner Harris, Mr. Morrison said that there is provision under State Law that the concerned person must have given some kind of notice that they would be seeking judicial review, and the Town Attorney suggested that 'appellant' be used in place of 'concerned person'.

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10-9.507 Separation – In further response to Commissioner Harris, Ms. Wight said that the Zoning Code has defined the area as two feet, and Mr. Morrison said that the Courts want to see a definitive amount.

10-9.603 (a) – In response to Commissioner Krebs, Mr. Morrison said that the display space is limited, but not the number of signs.

10-9.707/708 – In further response to Commissioner Krebs, Ms. Wight said she would add wording to the affect that these sections had no cross-reference in the Ordinance.

10-9.709 Shopping Center Signs – The Commissioners asked for a definition for shopping center signs. Mr. Morrison said that a reasonable amount is necessary, and Ms. Wight discussed it further.

10-9.802 (b), Non-Commercial Messages – In response to Vice Chair Krebs, Ms. Wight discussed size restriction, noting that 18 feet would enable a number of signs to be used, and Mr. Morrison noted that the size of a single sign could be restricted. After further discussion, it was agreed that 18 feet is acceptable. The Commissioners agreed that any single sign should not exceed 8 square feet.

10-9.803 (b) (1) Temporary Real Estate Signs - In response to Vice Chair Krebs, Mr. Morrison explained that State Law determined the use of the wording 'on the market' as the amount of time that a sign could remain in place, and Ms. Wight noted that the height and size of the sign could be limited.

10-9.804 Flags – In response to Commissioner Sisich, Mr. Morrison explained why he recommended setting these limits. General discussion followed.

In response to Commissioner Harris, Mr. Morrison recommended that the sign and flag allowance be kept separate.

General discussion followed on the number of flags that should be allowed. Mr. Morrison said that people might wish to fly more than one flag, and it was agreed that the maximum would be set at 5 with a further 100 square feet of-space being allotted for signs.

10-9.815 (b), (c) – In response to Vice Chair Krebs, Ms. Wight said that a general rule exists in the Zoning Code about height being limited to 11 feet.

10-9.816 Temporary Signs – In response to Commissioner Harris, Ms. Wight said that a permit would not be necessary, and the basis for the rule is to prevent a business advertising a going-out-of-business sale on every day of the year.

10-9.1102 Scope – Commissioner Schinner and Mr. Morrison discussed an obscenity issue, and Mr. Morrison said that provision is made under State Law and he would not recommend any changes to the wording.

10-10.402 Private signs in traditional public forum area – Commissioner Krebs questioned why two people together can hold eight times more sign area than one person. It was agreed that 50 square feet was sufficient.

No comments were made on the Negative Declaration.

Commissioner Harris and Mr. Morrison discussed 'for sale' signs displayed in cars.

M/s Zwick/Harris, and unanimously passed (5-0) to continue this item to the meeting of November 20, 2006, to approve the resolution.

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E. APPOINT CHAIR AND VICE CHAIR

M/s Sicich/Zwick and unanimously passed (4-0) to nominate Vice Chair Krebs as Chair and Commissioner Schinner as Vice Chair for the remainder of 2006.

F. ITEMS FROM PLANNING COMMISSION

In response to Commissioner Harris, the Town Attorney said that the public is allowed to tape record meetings, and that they cannot be prohibited from doing so.

G. ITEMS FROM STAFF

The Planning Director reported that 190 Scenic Avenue has been referred by the Town Council to the Planning Commission with the direction that the information requested by the Planning Commission be provided.

H. ADJOURNMENT TO THE MEETING OF MONDAY, NOVEMBER 20, 2006

The meeting was adjourned at 10.05pm.



Joanne O'Hehir
Sr. Admin. Services Asst.