

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF JULY 6, 2009**

The Planning Commission was called to order at 7:00 p.m. on Monday, July 6, 2009.

Commissioners' Present: Brown, Krebs, Schinner, Sisich
Commissioners' Absent: Overberger, Harris (Zwick arrived late)
Staff Present: Planning and Building Director Wight, Senior Planner Boyle, Public Works Director Myrter, Building Official Angerman, Deputy Town Attorney Hurd

OPEN TIME FOR PUBLIC EXPRESSION

No one spoke during this time.

CONTINUED ITEMS

1. DR-0904/V-0903 – Alice Tompkins, 24 Cypress Road, APN 006-113-14, Hillside Design Review and Setback Variance to construct a one car, ±239 square foot garage within 2'-6" of the north side property line and 6" of the rear property line (Code: 8' and 20' respectively); and for the two uncovered parking spaces to be substandard in length between 16'-4" and 18'-3" (Code: 19'), located within the R-1 zoning district above 150' msl elevation. (staff: Chambers) **CONTINUED TO 9/7/09**

2. UP-0906/DR-0905 – Edmund B MacDonald, 14 Greenfield Avenue, APN 006-251-07 and 25, Design Review to add an exterior door and exterior windows on the west elevation and Use Permits for a 3,062 square foot Pilates exercise studio considered a private school and a 2,937 square foot retail art supply store (Code requires a use permit for a change of use which exceeds 1,200 square feet) located in the C-2 Zoning District (a lot merger of the two parcels will be processed administratively as a condition of any design review approval) (Staff: Boyle) **CONTINUED TO 7/20/09**

PUBLIC HEARING ITEMS

CONSENT AGENDA

Minutes – June 15, 2009

M/s Krebs/Sisich, to approve minutes as written. All ayes.

REGULAR AGENDA

1. DR-0904/V-0905/PDP-0901 – Neal Schon, 53 Tomahawk Drive, APN 177-220-66, Design Review, Side Setback Variance and an Amendment to the building envelope of the Quarry Mountain Precise Development Plan to construct a 160 square foot accessory storage building within 5 feet 6 inches of the south side property line (Code: existing building envelope setback: 15 feet) located within the R-1-H Zoning District. (Staff: Boyle).

Schinner recused himself because he lives within the noticing range.

Senior Planner Boyle presented the staff report, noting that there is no requirement to amend the Precise Development Plan as specified in the staff report due to a resolution passed by the Council to allow certain structures outside the building envelope if the findings can be made. Those findings are in the staff report. Regarding the height limitations, the maximum height requirement is 30 feet above grade and 18 feet above the ridge. The project complies with both height requirements. Staff is able to support the project based on the findings as outlined in the staff report. He noted that an additional condition of approval would be added that the exterior colors much match the existing house.

Brown asked about the setback findings because the shed could be placed in front of the house, although it is not an ideal location. Boyle said topography is a finding to permit the structure in its proposed location. Deputy Town Attorney Hurd added that if it is prominent and there are other locations where the structures would be screened, design review findings (compatibility with existing improvements) might not be met and it might deprive this property of something other property owners have.

Jeff Kroot, architect representing the owner, said they did look around for other places to locate the structure, and locating it in front would be ugly and it could not be screened. The current location will be screened and not very visible. He noted that looking up from the street approximately two feet of the top of the shed would be visible. He would agree to the same siding and colors as the house.

Sisich was in support of the project.

Krebs said any time a structure is placed so close to the property line, although in a screened location, he is concerned about any precedent that may come forward for other structures in the neighborhood.

Brown said the siting of the structure is in the best location, although he does not want to set precedent to build so close to the property line on such big lots.

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Krebs asked if there are any other special requirements the Commission should know about for the Quarry Mountain development. Wight said this is a small structure but the concern was to not develop over 18' in height and maintain the open space around the properties.

M/s Sisich/Krebs, to approve the staff report, based on the findings and conditions in the staff report, as well as an additional condition that requires that the colors and materials of the accessory structure to be the same as the main dwelling. Ayes: Krebs, Sisich, Brown. Audience advised of the ten day appeal period.

Schinner returned to the dais.

2. **V- 0906 - Alan Flaks, 360 Redwood Road, APN 007-095-50**, Sideyard Setback Variance for an existing unpermitted 334 square foot bedroom addition within 8 inches ± of the southwest side property line (Code: 8') and a parking variance for one of the three required parking spaces to encroach at the maximum approximately 2 feet 6 inches into the public right of way. (Staff: Boyle)

Boyle advised the Commission that the applicant has asked for a continuance until the meeting of August 3, 2009.

3. **DR-0906 - Brandon and Anna Carr, 249 Crescent Road, APN 007-222-52**, Hillside Design Review to demolish 404± square feet of the existing dwelling and add a 1,300± square foot addition to the existing dwelling; demolish 470± square feet of existing deck and add 1,288± square feet of new deck; add a 115± square foot trellis attached to the house; add a 336± square foot covered walkway at the entry and family room, on property located above 150 msl elevation. (staff: Wight)

Brown recused himself and turned the gavel over to Schinner because he lives within 500' of the applicant's property.

Schinner waived reading of the staff report but asked what changes have taken place since the previous approval, to which Wight explained, noting that the exterior colors are similar to what was previously approved.

Krebs asked if the deck square footage has changed.

Sisich asked how this plan differs from the previous plan with respect to any impacts to the neighbor. Wight said the existing house will stay, and the addition is only one story and located pretty far away, and the neighbor who has two stories.

Brandon Carr, applicant, explained the project. In response to Krebs, the deck is on the side of the house and was not part of the previous project.

In response to Schinner, Carr said they are not certain the eucalyptus trees will be removed because they are still working with the Fire Department.

Jeff Kroot, Crescent Road, said he and his wife are strongly in support of the project.

Sisich and Krebs are in support of the staff report.

Schinner is able to support the staff report.

M/s Sisich/Krebs, to support the staff report and conditions of approval. Ayes: Schinner, Krebs, Sisich

The audience was advised of the ten day appeal period to the Town Council.

Brown returned to the dais.

4. **TOWN OF SAN ANSELMO** – Review and comment upon proposed ordinance that would create new permit requirements for certain excavation, fill, and grading activities on private property.

Public Works Director Myrter presented the staff report, noting that the biggest item of discussion at the last meeting was the exemption process. He explained that there is a default ordinance within the 2007 California Building Code. He noted that when a grading permit is required, in addition to a building permit, there will be an extra step for the applicant, as well as additional fees. In summary, the ordinance has an exemption of only 5 cubic yards with no exemption for foundation excavations and understory excavation already approved as part of a valid building permit.

In response to Brown, Myrter said if a retaining wall is separate of the structure, it will require a separate grading permit. If it is part of the building permit for a house, the review will be done by the Building Official as part of the building permit.

Hurd further explained that we are using the ordinance to give an additional tool to the Commission and the Council. He provided an overview of the changes made in the various sections and subsections of the ordinance since the last meeting.

Brown asked about allowing construction inside a dwelling during raining season. Myrter said the ordinance is very clear about health and safety during rainy season and that no construction is permitted that would require grading/excavation.

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Sisich asked about earth work that starts prior to the rainy season but is still on going during the raining season. Myrter said he would have to make a judgment call. Building Official Angerman added that the Building Division allows construction throughout the year but during the rainy season erosion control methods must be in place. He explained that there are many different kinds of erosion control methods to keep soil on site so that there is no run off.

Schinner asked if there should be more wording added that the Public Works Director has the discretion to allow certain construction during the rainy season.

Regarding 9-18.11, Myrter said he handed wording changes on a hand out to the Commission prior to the meeting, different that what was in the staff report. He feels it is much more prudent to add 2:1 slope, which is much more specific, which was not in the previous ordinance. He said a slope that is steeper than 2:1 is not permissible. He feels this is a conservative and safe standard.

Brown asked about the process of mechanically rebuilding the hillside. Myrter said that would require a soils report and probably also a peer review.

Jeff Kroot, Crescent Road, thought five cubic yards was relatively small and quite limiting. 100 cubic yards would probably be required for a new house and would come before the Planning Commission most likely. Myrter said that 100 cubic yards establishes the threshold.

Kroot said there are a lot of projects built on sites that are perfectly safe to build on during the winter and would hope there is some language in the ordinance stating this. Also, there are some steeply sloped sites that would be better to wait until the ground is not saturated, well after the rainy season. Regarding 9-18.08, the findings about health and safety are very subjective.

Angerman said there is currently a grading and excavation permit process within the 2007 California Building Code. If you want to do undergrounding, patio work or other flatwork, a grading permit would be required. He noted that the permit processing time will be lengthened by going to the Public Works Department, as well as the additional Public Works grading permit fee to the applicant. If the goal is to not allow any grading work during the winter, the ordinance should be very specific. This ordinance does not address any erosion control; it only addresses that work must cease during the winter.

Sisich said the interest of the ordinance was from the Town Council. He is concerned that the changes the Commission has made may cause ripples in the community. He does not want to make more work for staff and is swayed by the comments of the Building Official and Jeff Kroot.

Schinner said he would suggest an increase to ten cubic yards and add wording in 9-18.10 to allow the Public Works Director some threshold in determining threats to public safety.

Krebs said he is willing to reconsider his comments from the last meeting. He does not want increased hardship to the public or staff but does not think there is much additional paperwork. Angerman said as part of an application people would be required to provide a calculation on how much earth would be moved, which is not normally part of the application process for small projects. Myrter said there will be an additional permit that would be part of the record.

In Zwick's absence, Wight provided Zwick's comments received earlier in the day: 5 cubic yards is too small of an amount to require a grading permit, and the finding in Section 9-18.08(b)(iv) should be required of the Public Works Director as well.

In response to Brown's question on why the ordinance came about, Hurd explained that this is reactionary because of certain projects that took place. There are several findings that have to be made throughout the year, which means smaller cut and fill, not just a restriction during the rainy season.

Brown suggested only looking at those projects over 100 cubic yards. Regarding health and safety findings in 9-18.08, he was not sure he could make that finding as a Planning Commissioner. Wight said the Commission's determination would be based on professional's evaluations. Regarding vii, Brown said these are technical issues and he would not want to make that call about the siltation and runoff. Brown would like some kind of exception to allow construction during rainy season for those projects that are safe. Myrter said the grading permit process would review any site excavation separate from the building permit.

Having just joined the meeting, Zwick said he would like to look at both the Public Works and Planning Commission lists, and perhaps exempt up to 100 cubic yards. He feels the intent is to look at the project to see if grading can be minimized if there is an alternative method of construction.

Myrter stated that the findings in 9-08.08 are very subjective. Zwick said from 5 to 100 cubic yards, the Public Works Director can make the decision to approve or have them make modifications.

Brown said his threshold would be 100 cubic yards.

Krebs thought 25 to 50 cubic yards should be the threshold.

Myrter said sometimes utilities have been exempted.

Krebs thought there would be a list of certain exemptions in the ordinance. Myrter thought 5 cubic yards could take care of the small landscaping and irrigation projects.

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The consensus of the Commission was to use 25 cubic yards.

Zwick said he would like to see through design, minimal cut and fill to still obtain a good project.

Regarding the indemnity clause, Krebs said he would like to add some accessory liability and running with the land language, which was taken out of the previous draft. Hurd said whoever takes the permit out would always be responsible. Krebs said the question is if it is covenant running with the land or would the liability be on the property owner, how can the Town best be protected. Hurd responded that it could be a personal guarantee. If it is a significant project, there is also a construction bond required. Krebs wanted to look at substantial liability after the project has been completed. Hurd said there is nothing in place in any other jurisdictions that have it.

Hurd summarized the changes he thought the Commission wanted in the draft ordinance as follows:

Change from 5 to 25 cubic yards;

Include information on how to pass the indemnity;

Make the finding (b) iv listed under section 9-18.08 the same for of the Public Works Director as it is for the Commission for ; and

Rainy season permits to allow flexibility for interior work and flat lots and allow flexibility of the Public Works Director.

M/s Schinner/Zwick, and passed, to recommend to the Town Council the ordinance, as amended by Deputy Town Attorney Hurd as read into the record. Ayes: Brown, Krebs, Schinner, Zwick Noes: Sisich

Sisich stated he voted no for the reason that the ordinance is not necessary as he outlined in his comments above.

DISCUSSION ITEM

None

ITEMS FROM PLANNING COMMISSION

Brown said the Marin BERST Green Building Task Force will meet in San Rafael on July 13th.

ITEMS FROM STAFF

Wight said the San Anselmo Housing Element subcommittee will visit potential sites this Thursday at 6:00 pm. and all are welcome.

The meeting was adjourned at 9:10 p.m. to the next meeting of Monday, July 20, 2009.

BARBARA CHAMBERS
Assistant Planner