

The regular meeting of the San Anselmo Planning Commission was called to order by Vice-Chairman Philip Heinecke at 8:00 p.m. in the City Hall on October 20, 1969. Representing the City Staff: John T. O'Rourke

1. ROLL CALL

Commissioners Present: Bernt, Creighton, Heinecke, Moore  
Perry, Stuart  
Commissioners Absent: West

2. APPROVAL OF MINUTES

Commissioner Moore moved the minutes of the special meeting of October 15, 1969 be approved as written, seconded by Commissioner Perry and unanimously approved.

3. OLD BUSINESS

- (1) Z-109 Application of Anna Ghezzi (owner) and John Komo (applicant) to rezone from R-2 (Two Family Residence District) to R-3 (Neighborhood Apartment District) A/P 7-213-25 and 7-213-41, commonly known as 158 Tunstead Avenue.

Mr. O'Rourke announced that the Planning Office has received a request from Mr. Komo that the above matter be continued to the next meeting, since Mr. Komo was still negotiating the purchase of Mrs. Ghezzi's lot at 154 Tunstead Avenue (A/P 7-213-40).

Commissioner Moore moved that Z-109, application of Anna Ghezzi (owner) and John Komo (applicant) to rezone from R-2 to R-3, assessor's parcels 7-213-25 and 7-213-41, commonly known as 158 Tunstead Avenue, be continued to the next regular meeting, November 3, 1969, for further action. Commissioner Bernt seconded the motion which was unanimously approved.

4. NEW BUSINESS

A. SUBDIVISION APPLICATIONS

- (1) SS-154 Application of Adolph Meyer for lot split of Lot 30 and a portion of Parcel A, Lincoln Park Sub-division, A/P 6-241-47 and 6-241-48, at 56 Lincoln Avenue.

Mr. O'Rourke read the staff report which stated that the parcels were originally subdivided, but with the passage of Ordinance 190, all sub-standard lots in contiguous ownership were combined. Since that time this parcel has been considered one lot. He noted that one of the proposed parcels is deficient in minimum average width, and will require a 20' variance for parking in the rear setback. Improvements such as sidewalk, driveway approach and curb and gutter will be required, and the Fire Chief has required the replacing of 500' of 4" water main with a larger pipe.

Commissioner Perry questioned the cost per foot of replacing the water main and was told it would be about \$12.00. Commissioner Stuart asked if it would be necessary to move the power pole which presently is on the area designated for a driveway easement.

Mrs. Porteous representing Mr. Meyer stated that they feel it is not out of line to create lots substandard in size, since they are the same size as many other existing lots in the Lincoln Park area.

Commissioner Perry stated he feels the proposed driveway easement, though it looks fine on paper, would not work out as a practical matter. This area is less than 10 feet from

the edge of the creek and there is a power pole in the middle of it. He noted that the City has decreed a policy of creating larger lots - this application would create two substandard in size lots. He said he does not feel there is anything special about this property that would justify a variation in the ordinance.

Commissioner Creighton said he feels that Mr. Meyer bought the property as two lots and was forced to join the two lots into one parcel as a result of Ordinance 190. He said he feels the existing dwelling is properly situated on the one lot to allow the lot split, and is in favor of granting the subdivision.

Commissioner Bernt said he feels that the effect on the town is the consideration - not the moral values connected with the development.

Commissioner Moore moved that SS-154, application of Adolph Meyer for lot split of Lot 30 and a portion of Parcel, Lincoln Park Subdivision, assessor's parcels 6-241-47 and 48, at 56 Lincoln Avenue, be denied on the basis that it fails to show that hardship exists and that the proposed subdivision would create lots substandard to ordinance provisions.

Commissioner Bernt seconded the motion which was approved with the following vote:

AYES: Moore, Perry, Stuart, Bernt, Heinecke.  
NOES: Creighton

Commissioner Perry explained to the applicant that in order to grant a variation from the ordinance it is necessary to show that a hardship exists, or that results inconsistent with the intent of the ordinance will result if the variation is denied.

Commissioner Heinecke explained the process involved in the changing of an ordinance or adopting of a new ordinance, including public notice.

Commissioner Heinecke informed the applicant of the denial of the application and of his right to appeal the decision to the City Council within ten days from this date.

#### 5. CORRESPONDENCE

Mr. O'Rourke announced that the Commission had received a letter from Mr. Wicander requesting the withdrawal of his application for rezoning of lots at 58 and 72 Magnolia Avenue. There was also a communication from the City Attorney, accompanied by a reproduction of a magazine article relative to gas station land use.

#### 6. MATTERS FOR CONSIDERATION OF COMMISSION

- (1) U-144 A. W. Cherry application to serve wine and beer in conjunction with restaurant at 112 Spaulding Avenue

Determination if present proposed use is allowable under U-144

Mr. Cherry explained his present proposed use at 112 Spaulding Avenue; i.e., abandonment of the restaurant use and expansion of the wine sales use to include wine tasting, wine making demonstrations, mail order sales, and limited wine bottling, blending and production.

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Commissioner Perry inquired if there would be increased traffic, generation of noise, or noxious odors produced. Mr. Cherry replied that the traffic volume would be larger, but would be spread over a longer period of time each day. The only odor produced would be the odor of wine, which he feels is not objectionable. Commissioner Stuart inquired how many parking spaces would be available and Mr. Cherry replied about 20 on-street spaces and 80-100 off-street spaces on the roof of the adjoining garage. Commissioner Moore inquired if he was considered principally a wholesaler of wines, and Mr. Cherry answered, "no, a retailer".

Commissioner Heinecke stated he feels this is a substantial change from the original use permit, although he is in favor of the proposed operation. Commissioner Moore pointed out that the discussion of the application for U-144 included the wine tasting and off-sale wine use.

Commissioner Bernt moved that the Commission find that this use falls under the meaning of the original use permit and that included in this interpretation is wine making demonstrations, mail order sales, and limited wine bottling, blending and production. Commissioner Moore seconded the motion which was approved with the following vote:

AYES: Moore, Perry, Stuart, Bernt, Creighton  
NOES: Heinecke

(2) NON-CONFORMING MULTIPLE FAMILY USES in Single Family Residential R-1 Districts.

Commissioner Bernt reiterated some of the items previously discussed by the Commission with regard to this matter.

The Staff Report relative to the Town of Ross ordinance was read and discussed by the Commission.

Commissioner Creighton inquired as to the number of non-conforming multiple uses presently known to the Zoning Official, and was informed it was in the neighborhood of 75. He stated that he feels that the City should start with the non-conforming uses the City knows of and make the owners come in for a variance which would be recorded with the County Recorder's Office to act as a deed restriction.

Val Schaaf, from the floor, presented some suggestions for approaching the problem:

1. Set tools to prevent any further non-conforming uses from being created. A system of registration should be included.
2. Provisions for a penalty for anyone creating a new non-conforming use.
3. A system of notification of ordinance provisions should be set up so there can be no claims of ignorance on the part of property owners.

He stated he would like to see the problem solved with no undue hardship to anyone. He feels the problem should be approached with a degree of caution.

Mr. Frank Moore of 141 Sequoia Drive, inquired what the Commission considered multiple use, five unrelated families living in a one kitchen - one bathroom house, or two families living in separate living quarters on a R-1 lot. Commissioner Heinecke said there was no problem in abating the first type of multiple use - it was only necessary to report the problem to the Building Department. It was the second instance of multiple use that was difficult to abate and with which the Commission was concerned.

Mr. Tony Adam of 10 Knoll Road, stated he felt there was a problem of defining "a family" with regard to certain types of multiple use - the "hippie lay-out" being a good example.

Commissioner Bernt said the City Attorney was working on a new definition of "family".

Mr. Schaal pointed out that A.B. 1702 makes it necessary for the owner, or his agent, of a residential building to obtain and deliver to the buyer a report of residential building record obtained from the City, showing the regularly authorized use, occupancy, and zoning classification of such property, prior to the sale or transfer of any residential property.

Commissioner Heinecke said he felt that four main points had been touched on at this Commission discussion:

1. Would we be satisfied with an ordinance that simply attempts to prevent new multiple uses from being created, or is it necessary to attack the problem of all non-conforming multiple uses both new and old?

A straw vote showed five Commissioners in favor, one opposed, to attacking the total problem.

2. Does the registration approach appeal to the Commission?

The straw vote showed all Commissioners in favor of a system of registration.

3. Do we feel it would be desirable to attempt to notify the property owners by some sort of mailing, rather than just notice by publication.

The straw vote showed four Commissioners in favor, one opposed to a direct mail notification system.

4. What system for eliminating non-conforming multiple uses upon discovery should be used - (a) an amortization period for discontinuing the use, (b) automatic termination on transfer of the property, or (c) a combination of the two systems.

The straw vote showed the Commissioners generally favoring a combined system of elimination, with two Commissioners in favor of a five year amortization period, two favoring a ten year amortization period, and two abstentions; and with a maximum period of one year to abate non-conforming multiple use upon transfer of such property.

The Staff was requested to report on the ordinance passed and in use in San Francisco relative to the abatement of non-conforming multiple uses in R-1 Districts.

Commissioner Moore moved the meeting be adjourned, seconded by Commissioner Stuart and unanimously approved. The meeting was adjourned at 10:00 p.m.

PHILIP HEINECKE, VICE-CHAIRMAN