

The regular meeting of the San Anselmo Planning Commission was called to order by Chairman John F. West at 8:00 p.m. in the City Hall on November 3, 1969.

Representing the City Staff: John T. O'Rourke

1. ROLL CALL

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

Commissioners Absent: Heinecke

2. APPROVAL OF MINUTES

Commissioner Moore moved the minutes of the meeting of October 20, 1969 be approved as written, seconded by Commissioner Stuart and unanimously approved.

3. OLD BUSINESS

A. REZONING APPLICATION - PUBLIC HEARING

- (1) Z-109 John Komo and Anna Ghezzi. Application to rezone A/P 7-213-25 and 7-213-41 from R-2 to R-3 at 158 Tunstead Avenue.

Mr. O'Rourke announced that Mr. Komo has been unable to arrive at a satisfactory arrangement regarding the purchase of the lots under consideration from Mrs. Ghezzi, and has requested that his application for rezoning be withdrawn from Commission consideration.

Commissioner West directed the staff to notify Mr. Komo in writing that upon his request his application is cancelled, and that the application fee is forfeited.

4. NEW BUSINESS

A. STREET NAME CHANGE

- (1) Request of residents on Kathy Court to change the street name to Encina Place

Mr. O'Rourke said that the residents of Kathy Court had requested the name of their street be changed to Encina Place. "Encina" is Spanish and means "live oak". The Police Chief, Fire Chief and City Engineer have no objection to the name change.

Commissioner Moore moved that the Planning Commission recommend approval to the City Council of the request to change the street name Kathy Court to Encina Place on the basis that there is no conflict between the proposed name and any other street name within the City, but with the stipulation that the cost of the sign and the cost of placing the sign be borne by the residents, funds for this to be deposited with the City prior to the name change becoming effective.

Commissioner Perry seconded the motion which was unanimously approved.

B. VARIANCE APPLICATIONS

- (1) ADJ. 412 Application of Delia Comolli for a variance of one parking space from the parking requirements for duplex use at 1515-A Sir Francis Drake Boulevard.

The staff report was read, noting that there was no possible way the property could accommodate four automobiles except to use tandem parking which would necessitate backing into Sir Francis Drake Boulevard to exit.

Mrs. Marie Pierotti spoke for her sister, Mrs. Comolli. In answer to Commissioner Perry's questions, she said that the two lots are under common ownership. The front unit is a five room house, the rear unit is larger. The proposed duplex use is for the rear lot only.

Commissioner Moore stated that traffic on Sir Francis Drake Boulevard is very heavy, and the common driveway from these lots enters the Boulevard at an extremely complicated intersection. He felt to allow additional vehicles to enter and exit Sir Francis Drake Boulevard at this point would aggravate an already hazardous situation.

Commissioner West stated he felt this Commission had inherited bad planning approved in 1956, in which these parcels, then one parcel, in an R-2 District, were subdivided into two substandard lots. He said he feels to allow this variance would create further problems when rightfully steps should be taken to erase a bad situation.

Commissioner Moore moved that ADJ. 412, application of Delia Comolli for a variance of one parking space from the parking requirements for duplex use at 1515-A Sir Francis Drake Boulevard be denied on the basis that:

1. it fails to prove hardship
2. it has the potential for creating additional aggravation of an already hazardous traffic condition on Sir Francis Drake Boulevard
3. the land appears to be used to its full capacity by the present development.

Commissioner Bernt seconded the motion which was unanimously approved.

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

- (2) ADJ. 413 Application of Clyde A. Sargent for a 5 foot variance in sideyard setback to construct a carport at 190 Butterfield Road A/P 5-101-22

The staff report was read noting that the City Council had approved the curb cut for an additional driveway. The planning Director recommended the granting of this variance on the ground that this would allow trees to be saved.

Mr. Sargent said that this property, which he recently purchased, has parking provisions for one car only. The proposed carport structure will be set back 36' from the street, and to construct it without a variance would necessitate removing a number of large trees. The proposed structure will not block his neighbor's view or light, and the neighbor has indicated his approval of the construction of the proposed parking structure.

Commissioner Perry said he feels it is desirable from the City's standpoint to have additional off-street parking provided. He feels it is advantageous to save the trees, even if this necessitates granting a variance. Commissioner West concurred with these thoughts.

Commissioner Bernt moved that ADJ. 413, application of Clyde A. Sargent for a 5' variance in sideyard setback to construct a carport at 190 Butterfield Road be granted because to deny the application would end in a result inconsistent with the provisions and intentions of the ordinance, in that trees would be lost and the neighborhood's appearance would be impaired. Commissioner Perry seconded the motion which was unanimously approved.

C. SUBDIVISION APPLICATIONS

- (1) SS-155 Application of Milton J. Mark for a lot line revision A/P 5-081-01 and 5-031-07 - 91 Valley Road.

The staff reports were read recommending approval of the application to increase the lot size, and recommending that no dedication of a right-of-way be required at this time. The only improvements required would be installation of a driveway approach in accordance with the provisions of other city ordinances.

Mr. Mark said that it was his intention to construct a garage on the area being added to his present lot, and the driveway would be totally within the boundaries of his property.

Commissioner Perry said he felt it was beneficial to increase a smaller lot into a larger one, since there would be no significant decrease in size of the lot being subtracted from, it being a 19.5 acre parcel.

Commissioner Perry moved that SS-155, application of Milton J. Mark for a lot line revision of A/P 5-081-01 and 5-031-07, 91 Valley Road be approved provided an appropriate parcel map is duly recorded, and that the Commission waive any requirements for a dedication of right-of-way or street improvements at this time. Commissioner Creighton seconded the motion which was unanimously approved.

- (2) SS-156 Application of Frank Cherne for a lot line revision A/P 5-261-18, 5-261-23, 29 & 35 Woodside Court.

The staff reports were read noting that this request was to adjust lot lines for topographical reasons, and to correct a previous lot line change which was made illegally.

Commissioner Perry asked Mr. Cherne for clarification of level pad areas, lot lines and driveway easements as shown on the maps submitted.

Commissioner West asked the staff when the grading was done, and was told the original grading was done in about 1963. Mr. Cherne said that since that time he had widened the driveway and enlarged the level pad on Lot 10. Commissioner West said he felt that it does not make good planning sense to accommodate Mr. Cherne who bulldozes level pads whenever he pleases.

Commissioner Moore said he does not feel this lot line revision should be granted since it would make it seem allowable to other people to make pads and bend lot lines, and then ask for a lot line revision. Commissioner Bernt stated he felt this was a classic example of a "tortured lot line". Commissioner Perry said the "tortured" line does not bother him, since this is difficult terrain and to have straight lines on paper does not always make sense. He said he feels lot lines should be put where people can reasonably use the land. He said the grading done from time to time does not necessarily dissuade him from his opinion. He would rather see the lower parcel have the use of the flat area, rather than have a property line run through the middle of the area and have the ownership of the level area in one person, and the practical use in another. He felt the same reasoning applied to the "illegal" lot line revision of Lots 8 and 9.

Commissioner Perry asked if the City would require soils tests before issuing building permits regardless of the outcome of this application, and Mr. O'Rourke said undoubtedly yes, since this was an area that has had stability problems in the past. Commissioner Creighton in response to Mr. Cherne's comment

that drainage provisions had already been completed based on the City Engineer's recommendation, asked if this was the short piece of corrogated pipe visible from the lower pad (Lot 10) which empties into a natural gully. Mr. Cherne said yes, this emptied onto his property and was eventually drained into the City Storm Drain System on Carlson Avenue.

Commissioner Perry moved that SS-156, application of Frank Cherne for a lot line revision of A/P 5-261-18 and 5-261-23, in accordance with the amended map submitted, be approved, provided:

1. a parcel map is submitted for recordation
2. that a suitable cash deposit, bond, or other surety be posted for any drainage improvements or other improvements required by the City Engineer prior to the issuance of any building permits
3. no construction will be accomplished only after the City Engineer is satisfied as to the soils condition and soils stability.

Commissioner West seconded the motion which failed to pass by a tie vote as follows:

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

Commissioner West informed the applicant of the failure to pass by virtue of a tie vote, and of his right to appeal the decision to the City Council within thirty days from this date.

Mr. Murray, the owner of Lot 8 asked the Commission for guidance in what steps he should take to legalize the lot line revision affecting his parcel. He said he felt that the comments of the Commission in opposition to application SS-156, did not apply to his situation.

Commissioner Perry said that the City Council might be willing to consider the matter in two parts, or the Planning Commission itself could possibly make a separate motion with regard to the lot line revision relating to Lots 8 and 9.

After a brief Commission discussion, Commissioner Perry moved that the Commission reconsider the matter of SS-156, application of Frank Cherne for a lot line revision. Commissioner Bernt seconded the motion which was unanimously approved.

Commissioner Perry moved that in connection with SS-156, application of Frank Cherne for a lot line revision, the proposed lot line adjustment, designated on the amended map, which lies between Lots 8 and 9 of Woodland Park Unit #4 be approved. Commissioner Bernt seconded the motion which was unanimously approved.

Commissioner Perry moved that in connection with SS-156, application of Frank Cherne for lot line revision, the proposed lot line adjustment designated on the amended map, which lies between Lots 9 and 10 of Woodland Park Unit #4 be approved subject to the following conditions:

1. a parcel map be submitted for recordation
2. a suitable cash deposit, bond or other surety be posted for any drainage improvements or other improvements required by the City Engineer, prior to the issuance of any building permits
3. no construction will be accomplished until after the City Engineer is satisfied as to the soils condition and soil stability

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This approval is based on the recognition that while an irregularly shaped lot is created, it is more realistic than the existing lot structure in that the property lines will coincide with the areas which are likely to be used by the respective lot owners and thereby responsibility as well as enjoyment will be more properly designated. Commissioner West seconded the motion which failed to pass by a tie vote as follows:

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

Commissioner West informed the applicant of the failure to pass by virtue of a tie vote, and of his right to appeal the decision to the City Council within thirty days from this date.

5. MATTERS FOR CONSIDERATION OF PLANNING COMMISSION

A. U-124 Review of Use Permit granted to Paul Foti on 4-17-67 and amended 2-17-69

Mr. O'Rourke reported that no complaints had been received and it appears to the staff that Mr. Foti is conducting his business in accordance with the amended use permit. The Commission reviewed the conditions imposed by the amended use permit, and found everything to be in order. Commissioner West stated no action was necessary at this time with regard to U-124.

B. Non-Conforming Multiple Use of property in R-1 Districts

Commissioner West stated he feels the Commission has been asked to report to the Mayor's Committee if a Ross-type ordinance is desirable for San Anselmo, not asked to draft a possible ordinance. He said he had drafted some thoughts and recommendations to be passed to the Mayor's Committee and asked if they were the Commission's consensus. Commissioner West's draft was read and discussed by the Commission, with comments from the audience.

Commissioner Bernt moved that the following thoughts be endorsed as a recommendation to the Mayor's Committee:

1. Owners of property in R-1 Districts rely on the City to protect the integrity of their neighborhood zoning.
2. The continuation of legal non-conforming multiple uses in R-1 Districts after more than thirty years since the enactment of the first zoning ordinance is not in the best interest of the community.
3. Illegal non-conforming multiple uses in R-1 Districts resulting from bootleg construction and other causes are continually increasing.
4. The existing ordinance provisions offer no practical means for dealing with the problems of non-conforming multiple uses in R-1 Districts.
5. Non-conforming multiple uses in R-1 Districts should be eliminated. To accomplish this a new ordinance is needed as soon as possible.

The ordinance should:

- (a) Require the abatement of all non-conforming multiple uses in R-1 Districts after a specified date. This date should be set for a reasonable time, possibly 5 to 10 years after enactment of the new ordinance.

- (b) Provide for variances to be effective for perhaps three years in the first instance and renewable for not more than two successive three year periods. The basis for granting variances should be narrowly drawn and should put the burden of justification squarely on the applicant.
- (c) Notify all owners of property in R-1 Districts by registered mail of the requirement that non-conforming multiple uses be registered with the Planning Department within six months, or the non-conforming uses will be subject to abatement upon discovery.

Commissioner Perry seconded the motion which was unanimously approved.

6. CORRESPONDENCE

The Commission discussed a letter addressed to the Planning Commission, and distributed to each member, from Mr. James Kilty with regard to the publicity of discussion between individual Commissioners and applicants at the applicant's property. Commissioner Creighton elaborated on the incident which had precipitated this letter. Commissioner West suggested the matter be referred to the City Attorney for his opinion.

Commissioner Moore moved the meeting be adjourned at 10:30 p.m. Commissioner Creighton seconded the motion which was unanimously approved.

JOHN F. WEST, CHAIRMAN