

**TOWN OF SAN ANSELMO
TOWN COUNCIL STAFF REPORT**

March 5, 2008

For the meeting of March 11, 2008

TO: Town Council
FROM: Lisa Wight, Planning and Building Director
SUBJECT: Resolution of Approval for **129 Madrone Avenue, APN 007-161-31**

I. BACKGROUND

February 26, 2008: Town Council granted the appeal of the Planning Commission's denial of Flatland Design Review to construct a 1,394± square foot second story in conjunction with the construction of a new 3,078± square foot single family dwelling and 518± square foot garage at 129 Madrone Avenue, APN 007-161-31 with the caveat that the project be remanded to the Planning Commission with the specific direction that the second story deck not be allowed and that staff prepare a resolution for Council consideration at the March 11, 2008 meeting (3:1; Ayes: Freeman, House, Thornton, Noe: Greene, Absent: Breen).

II. RESOLUTION OF APPROVAL

The Resolution of Approval is attached for review.

III. RECOMMENDATION

Town Council approval of Resolution next in order.

Attachments: Town Council minutes and staff report dated February 26, 2008.
Resolution of Approval
APN map

3.) APPEAL OF PLANNING COMMISSIONS'S DENIAL OF FLATLAND DESIGN REVIEW OF A 1,394+ SQUARE FOOT SECOND STORY IN CONJUNCTION WITH THE CONSTRUCTION OF A NEW 3,078+ SQUARE FOOT SINGLE FAMILY DWELLING AND 518 SQUARE FOOT GARAGE. LOCATION 129 MADRONE AVENUE, APN 007-161-31. APPLICANT/APPELLANT: RALPH EPSTEIN, EPSTEIN PROPERTIES, LLC.

Staff report was presented by Planning Building Director Wight.

The public session was opened.

Ralph Epstein for Epstein Properties said staff gave him the background and he believes the house they have designed at 129 Madrone is in the character of the homes of the neighborhood.

Designer of project stated they have made a number of changes to the project in response to concerns. He believes it is the deck which is now in question. The landscape architect has proposed to supplement the landscaping with trees along back area. Mr. Epstein has been very open with neighbors and is trying to reduce any problems. They hope they don't have to remove the deck and are trying to avoid a solid wall; it is proposed to be 6' high and made out of lattice material.

The public session was opened

Kathy Day, 119 Madrone Avenue, said this project will have huge impact to the neighborhood and will impact her property in regards to light, air, and privacy issues. Day feels this is a maximum size building for this area and the project will have a huge impact on her family's life.

Neil Coppinger, 119 Madrone Avenue, said this project is going to have a huge light impact on his property and explained photographs of the story poles for the proposed project. He hopes that Council takes this into consideration when they review the light issue.

Eddy Williams, 135 Madrone Avenue, said he believes that the only way to permanently have privacy is to have a permanent wall.

Joan Halverson, 135 Madrone Avenue, believes this is a huge deck on a second story and urges Council to support the Planning Commission's decision.

Louise Mathews, Foothill Road, said she would like a requirement for a condition that utilities to be placed underground.

Kathryn Bradley, Durham Road, supports the Planning Commission's decision on this issue.

Epstein said they will preserve the view as much as possible. Epstein stated he tried to embrace the architecture of the neighborhood in the design. He stated if Council is uncomfortable with a screen wall they are more than happy to make it a solid wall. They are trying to stay within the regulations that are enforced now as well as those that may soon be enforced with Floor Area Ratio.

The public session was closed.

House feels the issues regarding light after 3:00 pm are typically not considered in terms of light. The privacy issue does concern her, particularly in reference to the deck. She thinks it would have an impact on neighbors in terms of noise. She is in favor of approving the home with the exception of the second story deck.

Thornton agrees with House in terms of light and air issues, and regarding the deck, she thinks there might be some privacy issues.

Greene has concerns with the neighbor's comments and that the Day Coppinger house would have a substantial impact from the proposed project.

Freeman stated it is obvious that the deck is the issue here and is wondering if the deck and the wall can be redesigned to satisfy the differences.

Ralph Epstein stated he will eliminate the deck and redesign without the deck.

Greene believes that these types of decisions are not appropriate for Council, that it is Planning Commission territory.

Town Attorney Hurd requested that if Council makes a decision tonight that they direct staff to generate a resolution to memorialize that decision.

M/s, House/Thornton, to grant the appeal with the caveat that the project located at 129 Madrone Avenue, be remanded to the Planning Commission with specific direction that the second floor deck be removed and to direct staff to draw up a resolution for consideration at the next meeting. Ayes: House, Thornton, Freeman. Noes: Greene.

**TOWN OF SAN ANSELMO
TOWN COUNCIL STAFF REPORT**

February 19, 2008

For the meeting of February 26, 2008

TO: Town Council

FROM: Lisa Wight, Planning and Building Director

SUBJECT: Appeal of Planning Commission's denial of Flatland Design Review to construct a 1,394± square foot second story in conjunction with the construction of a new 3,078± square foot single family dwelling and 518± square foot garage at **129 Madrone Avenue, APN 007-161-31**

PLANNING COMMISSION RECOMMENDATION

Denial on the grounds that M/s Harris/Overberger and passed (4-0) to deny the project on grounds that findings as required for design review could not be made that the project will not unreasonably affect the privacy of neighboring properties.

APPLICANT/APPELLANT: Ralph Epstein for Epstein Properties LLC

I. BACKGROUND

February 12, 2008: Town Council continued hearing to February 26, 2008 due to the lateness of the hour.

January 14, 2008: Planning Commission approved the use permit for demolition of the existing dwelling, but denied the Flatland Design Review on the grounds that the project will not unreasonably affect the privacy of neighboring properties. The Planning Commission's comments indicate their concerns were focused on the proposed master bedroom deck.

II. APPEAL

The appeal is attached for review. In summary, the applicant states that his designer was instructed to design a dwelling that would not require variances, fit the design character of the neighborhood, and limit the house to under 3,100 square feet. The applicant notes that the first shade study showed some shadowing to 119 Madrone after 3 p.m., so the second story was redesigned and a second shade study completed. This second shade study showed that No. 119 does not receive direct sunlight in the late afternoon autumn to spring with or without a second story at 129 Madrone, and that a one story structure at No. 129 would still shade the side of No. 119 in the winter.

With regard to the privacy finding, the applicant said because this deck is proposed off the master bedroom, it is not intended to be a “party deck”, but rather a “quiet space.” The applicant acknowledges that staff recommended a wing wall on the north side of the deck and the applicant is instead proposing a screen wall that allows light and air to pass through on the north side of the deck, but protect privacy to No. 119. The applicant agrees to the use of either obscure glass or clearstory windows in the recommended bathrooms. Furthermore, the applicant proposes to plant and irrigate shrubs and trees between his property and 18 Grove Lane so that No. 18’s privacy in their pool area is maintained. A landscape plan would be subject to administrative approval.

Although this is not a design review matter, in the appeal, the applicant discusses the fact that neighboring structures belonging to Nos. 119 and 133 Madrone encroach onto his property, of which the applicant intends to allow remaining. Finally, the undergrounding of the utility lines will be at the applicant’s expense. A February 4, 2008 letter was received from the property owners of 135 Madrone Avenue, referencing the appeal letter, and the applicant subsequently corrected the addresses and acknowledged the utility matter in a “corrected” appeal letter received on February 7, 2008.

Staff notes that the story poles were reinstalled earlier this week.

III. REQUIRED FINDINGS FOR APPROVAL

Design Review for the second floor:

1. *Will not unreasonably impair access to light and air of structures on neighboring properties.*

The Planning Commission did not disagree with the staff finding that the distances between the proposed structure and surrounding residences will allow free flow of air. The only structure that will receive shadow from the proposed structure would be 119 Madrone and that would be in the afternoon from autumn through to spring. Late afternoon shadow falls on this valley location during the autumn to Spring time period even without development. Because of the proximity of the building envelope to 119 Madrone, even a one-story residence would cast afternoon shadow on 119 Madrone. Given these conditions, the amount of afternoon shadow that may be cast by the project is not considered an unreasonable impairment of light to 119 Madrone.

2. *Will not unreasonably affect the privacy of neighboring properties.*

The Planning Commission felt this finding could not be made, specifically the second story master bedroom deck.

3. *Will not adversely affect the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood.*

The Planning Commission did not disagree with the staff finding that no adverse impacts have been identified. A new dwelling would be built to current, more rigorous building code standards, than the present dwelling, and thereby, provide greater safety for the residents and surrounding improvements in the event of fire or earthquake.

IV. RECOMMENDATION

Should the Town Council deny the appeal, thereby supporting the Planning Commission's determination to deny the project, staff recommends that the motion include a statement that "the project denial is without prejudice" so that the applicant can reapply immediately.

Should the Town Council grant the appeal, thereby overturning the Planning Commission's determination, staff recommends the following conditions:

1. Construction plans shall be in substantial conformance with the design review plans prepared by Holder Design Associates, sheets 1 through 4, dated 8/20/07 with the following modifications:
 - A) Obscure glass shall be used in the Master Bathroom and Bathroom 4 windows, or the windows shall be substituted with clerestory windows with the bottom of the pane above eye level.
 - B) A wing wall on the side of the Master Bedroom deck shall be added to block any view of the residence at 119 Madrone.
 - C) Prior to the issuance of an occupancy permit, shrubs and trees shall be planted at the rear of the yard to screen views of swimming pool area at 18 Grove Lane, to the satisfaction of the Building and Planning Director.
2. All storm water from the hardscape, the driveway and the roof leaders shall be directed to Madrone Avenue as approved by the Public Works Director.
3. The encroaching shed at 135 Madrone shall be moved or modified to provide the minimum distance between structures as required by the Uniform Building/Fire Code(s).
4. All utilities to the new residence shall be placed underground.
5. Property lines must be surveyed and staked in place throughout construction.
6. The Ross Valley Fire Department requires:
 - A) A fire protection sprinkler system shall be installed which complies with the requirements of the National Fire Protection Association (NFPA) 13-D. A separate deferred permit shall be required for this system. Plans and specifications for the system shall be submitted by an individual or firm licensed to design and/or design-build sprinkler systems.
 - B) All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence. In addition it is recommended that the

signal from the sprinkler system flow alarm shall be wired into an additional device or be connected to the smoke detector circuit in a manner to provide an alarm if the sprinkler system activates.

C) The address shall be posted with illuminated numerals at least 4" in height in a location clearly visible from the street and in a contrasting color to its background.

7. All conditions of approval shall be printed at the top of Sheet 1 of the building permit drawings.
8. Should construction not begin within one year from the date of this approval, the design review and use permit approvals shall be considered null and void. A one-time-only, one-year extension of the planning permits can be requested in writing to the Planning Director prior to the expiration date.

Attachments: Appeal

Correspondence

Planning Commission minutes and staff reports dated January 14, 2008 and December 17, 2007.

APN map

Shadow studies (current and superceded)

Plans

RESOLUTION NO. _____

**A RESOLUTION OF THE TOWN COUNCIL OF
THE TOWN OF SAN ANSELMO GRANTING THE APPEAL OF THE PLANNING
COMMISSION DENIAL OF DESIGN REVIEW AT 129 MADRONE AVENUE, SAN
ANSELMO, AND REMANDING THE MATTER BACK TO THE PLANNING
COMMISSION.**

WHEREAS, On January 14, 2008, the San Anselmo Planning Commission denied design review and approved a use permit for demolition for the remodel of a residence at 129 Madrone Avenue, San Anselmo; and

WHEREAS, On January 15, 2008, a timely appeal of the Planning Commission's denial of design review was made by the applicant, Ralph Epstein for Epstein Properties LLC. Said appeal was based on the grounds that the proposed residence did not require any variances, was under the maximum square footage allowed for the lot, and was carefully designed so as not to impact the air, light, and privacy of adjoining properties or the health and safety of nearby persons or properties; and

WHEREAS, On February 26, 2008, the Town Council considered the appeal, heard a presentation from the appellant/applicant, took public comment, and discussed the merits of the appeal; and

WHEREAS, the required findings for design review are specified in Section 10-3.1505 of the San Anselmo Municipal Code that a project: 1) Will not unreasonably impair access to light and air of structures on neighboring properties, 2) Will not unreasonably affect the privacy of neighboring properties, 3) Will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood.

NOW, THEREFORE, BE IT RESOLVED, that the Town Council finds that the proposed project at 129 Madrone Avenue, San Anselmo, if redesigned without the proposed second story deck, will not unreasonably impair access to light and air of structures on neighboring properties, will not unreasonably affect the privacy of neighboring properties, and will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood.

BE IT FURTHER RESOLVED, that based on the findings of the Town Council as stated above, the appeal of the Planning Commission's denial of design review for the proposed project at 129 Madrone Avenue is hereby granted on the condition that that the proposed second floor deck be removed from the design. Furthermore, the project is hereby remanded to the San Anselmo Planning Commission for consideration of the redesign of the area where the second floor deck previously was proposed.

The foregoing Resolution was adopted at the regular meeting of the San Anselmo Town Council held on March 11, 2008, by the following vote:

AYES:
NOES:
ABSENT:

Mayor

Attest:

Barbara Chambers, Town Clerk

POR. PUNTA DE QUENTIN RANCHO

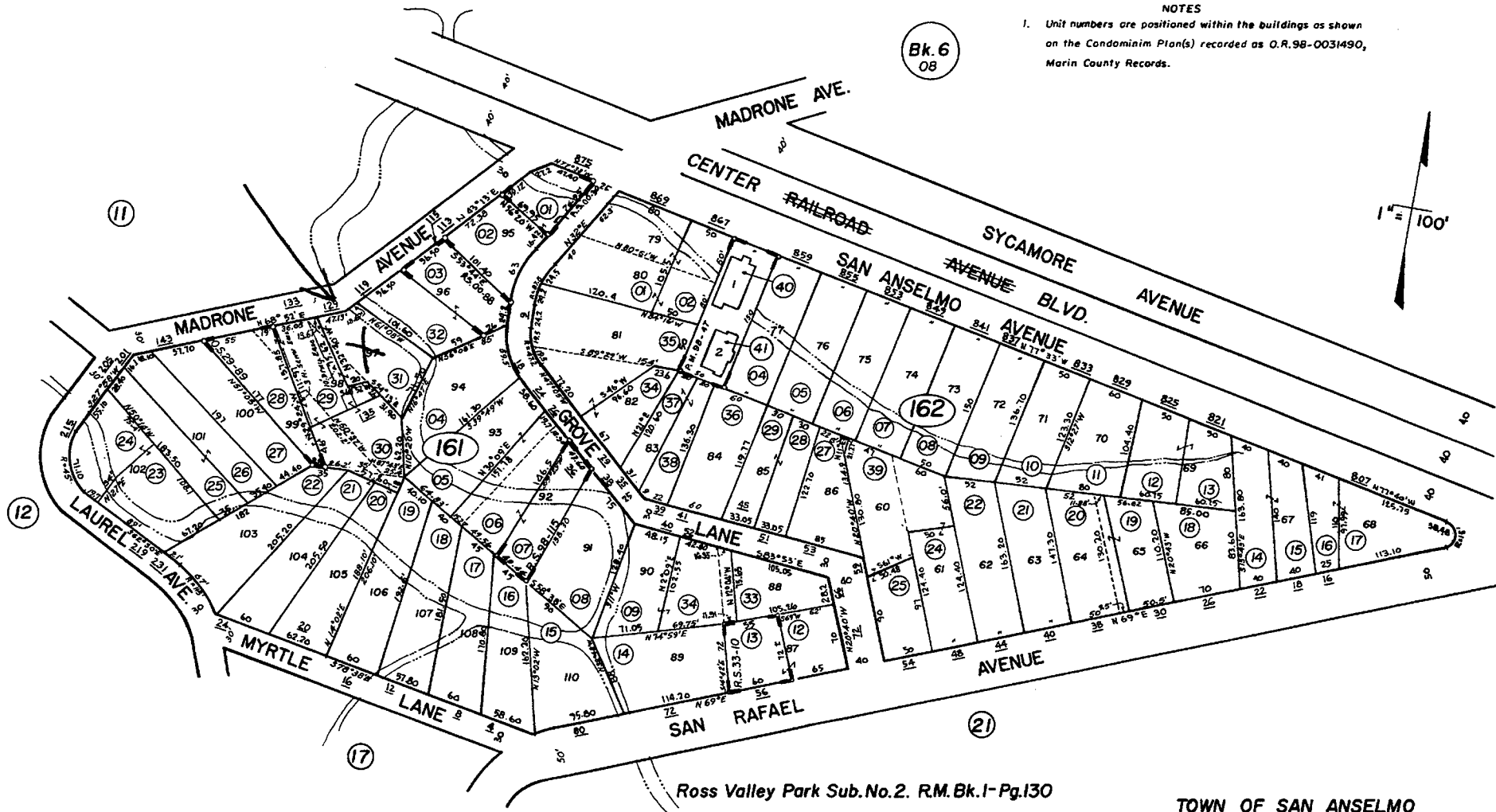
Tax Rate Area
7-000

7-16

GENERAL CONDOMINIUM
NOTES

- Unit numbers are positioned within the buildings as shown on the Condomin Plan(s) recorded as O.R.98-0031490, Marin County Records.

Bk. 6
08



Ross Valley Park Sub. No. 2. R.M. Bk. 1-Pg. 130

TOWN OF SAN ANSELMO
Assessors Map Bk. 7 - Pg. 16
County of Marin, Calif.

5-16-01 NJ
5-21-99 MS
10-9-98 MS

NOTE-Assessor's Block Numbers Shown in Ellipses.
Assessor's Parcel Numbers Shown in Circles.