

**TOWN OF SAN ANSELMO  
PLANNING COMMISSION STAFF REPORT**

**For the meeting November 19, 2012**

**Agenda Item D-3**

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**Project Address:**

711-715 Sir Francis Drake Boulevard  
San Anselmo, CA, 94960  
APN: 006-083-08

**Case No.**

UP-1205, VAR-1203

**Property Owner:**

Ford Greene  
711-715 Sir Francis Drake Boulevard  
San Anselmo, CA, 94960

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**Request**

An after-the-fact conditional use permit for a residential use in the Limited Commercial (C-L) zoning district and an after-the-fact height variance for a fence at 711 Sir Francis Drake Boulevard, San Anselmo, APN 006-083-08.

**Recommendation**

Staff has the following recommendations:

1. Staff recommends approval of the after-the-fact conditional use permit application for a residential use in the lowest level of the building at 711 Sir Francis Drake Boulevard within the C-L zoning district.
2. Staff recommends denial of the after-the-fact variance application for a 14 foot high fence at 711-715 Sir Francis Drake Boulevard (Code: 8 feet).

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**I. PROJECT SUMMARY**

**Environmental Determination**

Categorically Exempt: Section 15303(a) – New Construction or the Conversion of Small Structures.

**Authority**

San Anselmo Municipal Code; Article 13 - Use Permit, Article 14 - Variance.

**Timing**

A determination must be made within 60 days of the project being deemed complete. The original decision deadline for this project was October 10, 2012; however, the owner and the Town agreed upon a one time 90 day extension, pursuant to California Government Code Section 65957. The new deadline for a determination on these applications is December 10, 2012.

**Previous Action**

August 23, 2005 Town Council approved Resolution No. 3738 granting the appeal and overturning the approval by the Planning Commission of two sign variances.

**II. PROJECT ANALYSIS**

**Existing and Proposed Conditions**

	<b>Existing</b>	<b>Proposed</b>	<b>Code</b>
<b>Lot Size (sq. ft.)</b>	10,000	Same	NA
<b>Floor Area (sq. ft.)</b>	<b>Total 4,840</b>	<b>Total 4,840</b>	10,000
Level 1 (unpermitted residential)	1,330	1,330	
Level 2 (commercial)	1,700	1,700	
Level 3 (permitted residential)	1,810	1,810	
<b>Garage(sq. ft.)</b>	800	800	NA
<b>Floor Area Ratio</b>	48%	48%	100%
<b>On-Site Parking</b>	<b>Total 9</b>	<b>Total 9</b>	<b>Total 9</b>
	Garage 3	Garage 3	
	Uncovered 6	Uncovered 6	
<b>Stories</b>			
Main Building	3 (legal nonconforming)	3 (legal nonconforming)	2
Barn	1	1	2
Garage	1	1	2
<b>Height (feet)</b>			
Main Building	30	30	30
Barn	20	20	30
Garage	16	16	30
<b>Zoning</b>	C-L	Same	NA
<b>Flood Zone</b>	X (not a flood zone)	Same	NA

## Project Description

### Conditional Use Permit for Residential Use

The request is for an after-the-fact conditional use permit for a residential use in the Limited Commercial (C-L) zoning district. The San Anselmo Municipal Code (SAMC) allows a residential single family attached use within the C-L district with a conditional use permit. The purpose of a conditional use permit is to allow for the review of a specific use to ensure that it is compatible with surrounding land uses and, if necessary, to impose conditions ensuring the use complies with the intent of the SAMC.

The main building on the parcel was constructed in 1905 and is comprised of three levels. The top floor (level 3) contains two residential units, each with one bedroom. The middle floor (level 2) contains two commercial spaces totaling approximately 1,700 square feet. The lowest level (level 1) contains a 1,330 square foot residential use, which is the subject of the after-the-fact conditional use permit application. The residential units on level 3 and the commercial spaces on level 2 are accessed from Sir Francis Drake Boulevard. Both levels also have balconies at the rear of the building. The residential unit on level 1 can only be accessed from the rear of the building via the driveway and backyard.

The residential unit on the lowest level contains a great room with dining, living and office areas, a bathroom, kitchen and sleeping area (Sheet A2.1). Town records show that this level was originally a bakery. No changes are proposed to the unit as part of the after-the-fact conditional use permit application. However, if the conditional use permit is approved, an after-the-fact building permit application will need to be submitted and the work completed to bring the unit into compliance with current building and fire codes.

### Fence Height Variance

The owner is requesting an after-the-fact variance for an existing fence which is 14 feet high and located along the southern property line between the barn on the project site and the adjacent two-story building at 703-707 Sir Francis Drake Boulevard. The SAMC limits the height of fences to 6 feet of solid material with 2 feet of lattice on top for a total height of 8 feet. The fence in question separates the backyard of the parcel from a small parking lot and Bridge Avenue.

The owner is requesting a fence height variance based on his claim that the lot is the only property in San Anselmo which contains residential units in close proximity to three major roadways: Sir Francis Drake Boulevard, Bridge Avenue and Center Boulevard. The owner has stated that because of its location, the parcel is exposed to significant sources of noise and air pollution and privacy and security are also compromised. The owner contends that the 14 foot high fence mitigates these impacts. The owner has submitted signatures from two adjacent neighbors (4 Bridge Avenue and 6 Bridge Avenue) supporting the height of the existing fence.

### III. REQUIRED FINDINGS

#### Use Permit for a Residential Use in a Limited Commercial (C-L) Zone

1. *The establishment, maintenance, or operation of the use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of the proposed use, or be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the Town.*

The continued use of the residential unit on the lowest level of the building will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood. The 1,330 square foot studio unit located at the rear of the building, below street level is not visible from the street or adjacent properties. The front doors and windows of the unit face the backyard. The only other wall of the unit which contains windows faces a windowless wall of the adjacent two-story building at 4 Bridge Avenue. Continuation of the residential use will also not be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the Town. The residence has been occupied by the current owner for approximately 26 years and there have been no complaints that its occupation has been detrimental to the neighborhood or the Town. If the after-the-fact conditional use permit is approved, an after-the-fact building permit will need to be applied for, obtained and the work completed to the satisfaction of the Building Division to bring the level 1 unit into compliance with current building and fire code requirements.

Staff is able to make this finding for a conditional use permit for a residential use in the C-L zone

#### Fence Height Variance

1. *Due to special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the controlling zoning ordinance or regulation deprives the property of privileges enjoyed by other property in the vicinity and under an identical zoning classification, and the granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.*

The special circumstances applicable to the subject property are location and surroundings. There are no special circumstances in relationship to the property's size, shape or topography.

The property is zoned C-L and is surrounded by other parcels that are either zoned for commercial or high density residential uses. The parcel is also in close proximity to

two major arterial roads (Sir Francis Drake Boulevard and Center Boulevard). Furthermore, the parcel's location and surroundings are unique in that it is located within approximately 200 feet of the Town's transit terminal and approximately 125 feet from the loading dock of a supermarket. Even with these special circumstances of location and surroundings, the strict application of the regulation does not deprive the property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification. Requiring the fence to be a maximum of 8 feet in height does not deprive the property owner of the basic privacy and security that is enjoyed by other properties in the vicinity. Nor would an 8 foot high fence deprive the property owner of reasonable protection from traffic noise and pollution.

If the Town of San Anselmo were to grant the after-the-fact variance for the 14 foot high fence, nearly twice the allowed height, it would constitute a grant of special privileges inconsistent with the limitations placed upon other properties in the vicinity and zone. Numerous properties in the C-L zone along Sir Francis Drake Boulevard and adjacent to large commercial uses could also request a fence height variance. Granting the height variance would give the subject property a special privilege over similar properties in the area. Consistently granting fence height variances along the heavily traveled Sir Francis Drake Boulevard corridor between "The Hub" and Red Hill Shopping Center could result in a walled in or "sound wall" look to the area.

Staff is not able to make this variance finding.

2. *The granting of the variance, under the circumstances of the particular case, will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the owner and will not be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood*

Granting the fence height variance of 14 feet (Code: 8 feet) will not negatively affect the health or safety of persons residing or working in the neighborhood of 711-715 Sir Francis Drake Boulevard. There are no indications that the 14 foot fence, which has been in place since 2005, has impacted the health or safety of occupants of the neighborhood. Granting an after-the-fact variance will also not be materially detrimental to the public welfare or cause injury to property or improvements nearby. The fence has been at its current height and location for over 7 years and the Town has no record of any complaint filed regarding its material or fiscal impact to the neighborhood. The owner has also provided letters of support from two adjacent neighbors at 4 Bridge Avenue and 6 Bridge Avenue (Attachment 2).

Staff is able to make this variance finding.

#### **IV. CONDITIONS OF APPROVAL**

If the Planning Commission approves the after-the-fact conditional use permit and denies the fence height variance, as recommended by staff, then the following conditions shall apply:

1. Planning Commission approval is based on the plans and materials titled 711-715 Sir Francis Drake Boulevard Conditional Use Permit and fence height variance for 713 C Sir Francis Drake Boulevard, prepared by Danadjeeva Hansen Architects, Inc. date stamped received by the San Anselmo Planning Department on August 1, 2012, with the following change:
  - A. The 14 foot high fence is not approved.
2. All conditions of approval shall be printed at the top of sheet 1 of the building permit drawings.
3. No later than 3 months after approval of the after-the-fact conditional use permit, a complete building permit application to legalize or demolish the existing residential unit on level 1 must be submitted to the Town. The building permit application to legalize the unit must show that it is in compliance with current building and fire code requirements. Once the building permit is issued the owner shall start work and continue in a timely manner until project completion. Please contact the San Anselmo Building Department at 415-258-4616 or [townofsananselmo.org/building](http://townofsananselmo.org/building) for requirements and further information.
4. No later than 3 months after denial of the after-the-fact fence variance, the owner must either remove the fence or submit a complete building permit application to the Town showing the fence modified to a maximum height of 6 feet of solid material with 2 feet of lattice. Once the building permit is issued the owner shall commence work and continue in a timely manner until project completion.
5. The property owner shall indemnify and hold harmless the Town of San Anselmo and its officers and/or employees in the event of any legal action related to or arising from the granting of this approval and shall cooperate with the Town in the defense of any such action, and shall indemnify the Town for any award of damages and/or attorneys' fees and associated costs that may result.

Prepared By:



Phil Boyle  
Senior Planner

Attachments:

1. Application and Supplemental Questionnaires
2. Letters of Support
3. Letters from Property Owner's Legal Counsel, November 13, 2012
4. Plans