



DANADJIEVA HANSEN ARCHITECTS. Inc

To Town of San Anselmo Planning Division

January 10, 2013

Phil Boyle,
Senior Planner
525 San Anselmo Avenue,
San Anselmo, CA 94960-2682

Re: Conditional use Permit Application for
Residential Apartment, Live/Work unit within
C-L Zoning, Group R-2,

RECEIVED

JAN 10 2013

**TOWN OF SAN ANSELMO
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Description of the Use Permit Scope

Inspection Report of 2001

At the resale of the property in 2001, on October 5, 2001, the seller's agent identified in the residential building record the existing occupancy of the property at 711-715 Sir Francis Drake as mixed use, residential/commercial for 3 living units and 2 commercial units. The Town of San Anselmo resale inspection report of October 11, 2001 acknowledged the mixed residential use for 2 living units and 2 commercial units with a "second unit" in the "basement." At the time the Town classified such lowest unit at 713C as an *Illegal Substandard Second Unit* and requested the owner to correct the substandard conditions enumerated in the report.

2005 Reliance on 2001 Inspection Report

In August 2005 the Town requested that the Owner begin the process of applying for and obtaining the proper permits for the unit at 713C and provided a copy of the 2001 inspection report to Mr. Greene. After 2001, and partially in response to items set forth in the resale report, the Town authorized seven (7) permits to the current Owner. This indicates on-going efforts on the Owner's part to comply with the Town of San Anselmo's directives.

Planning Issues Regarding the Conditional Use Permit and Zoning

The property is located in a Limited Commercial (C-L) District. On the General Plan Land Use Map the district is classified as "Limited Commercial" which allows a maximum Floor Area Ratio of 1.0. Pursuant to both the General Plan, and the zoning scheme, residential uses are allowed within this District which "provide mixed uses, live/work arrangements, and affordable housing." "Multi-Family uses are encouraged." (San Anselmo Municipal Code ("SAMC") § 10-3.201 (j).)

The Land Use Regulation Table 3A allows Multi-Family, Single Family and Studio uses in the C-L District, but does not permit second units in single family residences. (SAMC § 10-3.302, at pp. 277, 281; def of "residential second unit" is limited to R-1 District. (SAMC § 10-3.1701 at p. 328.2)

From the outset in 1905, the premises have always been used as an apartment building with live/work arrangements as to which, starting in 1911, the Town's land use regulations have consistently authorized residential use. Commencing in 1911 the chronology of occupancy in the building shows that apartment use has included a live/work use. Since the advent of the Town's first building regulations in 1911, both uses have always been an actual and permitted use of all units in the building. Commencing in at least 1911 the scope of use of unit 711 upstairs and downstairs (now labeled 713 C) has always been live/work at first in the form of a bakery/residence, then in an antique furniture/residence, cabinetmaker/residence and ultimately law office/residence.

The proper land use zoning classification for unit 713C is a Multi-Family residence, an apartment, used in a live/work arrangement in the C-L District.

The Continuing Use Requirement for Properties that Become Nonconforming Does Not Apply to an Authorized Existing Occupancy

Buildings, facilities and conditions that are already in existence, constructed or officially recognized prior to the adoption of the 2010 California Fire Code ("CFC") are defined as "existing." (CFC § 4602.1, at p. 529)

The 2010 California Building Code ("CBC") § 1.8.3.1 states that the provisions of the code "regulating the erection and construction of dwellings . . . shall not apply to existing structure as to which construction is commenced or approved prior to the effective date of these regulations."

Section 3402.1 defines an "existing structure" as "a structure erected prior to the date of adoption of the appropriate code, or one for which a legal building permit has been issued." The building was constructed in 1905, the Town was incorporated in 1907 and the Uniform Building Code was first adopted in 1922. Whether the legal perspective is that of the Town or the CBC, the building is obviously a long-standing and pre-existing structure and occupancy.

San Anselmo's zoning code now places the building in the Limited Commercial District and authorizes residential multi family, mixed use, live/work occupancy. Such uses are approved and therefore legally conforming. Thus, there is no continuous use requirement applicable to 711/713C. Continuous use requirements apply only to a use that became nonconforming upon the subsequent enactment of a zoning ordinance causing a then-existing use to become illegal. An apartment building use and live/work arrangement has been authorized in the currently zoned C-L District from 1911 to the present. (SAMC § 10-3.1701 at p. 328; Chronology of Occupancy and Zoning Development)

No Change in Occupancy Category

Because the use of 711/713C, as well as the entire building, has not changed since 1911, there has been no change in occupancy. The occupancy has always been residential, live/work. At no time did 711, 713C or any other part of the building, have R-3 occupancy.

R-3 occupancy pertains to care facilities for six or fewer clients for less than 24 hours. (CBC § 310.1). The interpretation in Town's March 29, 2012 Memorandum that "This is a change of occupancy classification from Group M/R-3 to M/R-2" is inaccurate. Likewise the conclusion, based on said change in occupancy, that "the building as a minimum will need sprinklers per

CBC 903.2.8, fire separations between occupations per Table 508.4, and sound transmission control per CBC 1207.6.” is inaccurate.

The occupancy of 711/713C has always been R-2. (CBC § 310.1, at p. 71, § 3408.1 at p. 596)

In addition, despite the incorrect classification of 713C as a “second unit,” and pursuant to public process, this is the first time that the Town has ever undertaken to accurately classify the occupancy. There is no pre-existing occupancy classification to provide the basis for any change suggested.

Planning Commission Direction Given To Applicant On November 19, 2012

At the November 19, 2012 public hearing both the Planning Commission members, and members of the public expressed the unopposed view that the unit be legally authorized. In order to avoid potentially unreasonable, unnecessary and prohibitive expense, the Planning Commission continued the appeal so as to allow time to ascertain the appropriate CBC and CFC standards, including an evaluation of applicable standards in an historical context that properly apply to the 711/713C apartment, live/work arrangement.

In the effort to find an economical solution to bring the building into compliance with applicable code regulations, the Planning Commission suggested exploring a historic designation for the property. To resort to Historical Code standards to authorize the residence is not necessary at this time because the result is obtained by the straightforward application of the appropriate standards set forth in the SAMC, CBC and CFC. In addition the Town of San Anselmo does not have listing of historic buildings. Even though the Town does not have an historic building listing, pursuant to Health and Safety Code § 18955, and as to any future inventory of historic buildings that the Town may compile, the 711-715 SFD building should be included in such an inventory because it possesses historic, architectural and cultural significance in the following ways:

1. Objective 6 of San Anselmo’s General Plan requires that San Anselmo survey and maintain an inventory of buildings of local historical significance; requires the Town protect such buildings from demolition, destruction or major alteration; and requires publication of such significant buildings.
2. The Conservation Element of San Anselmo’s General Plan A 6 of Conservation Goals requires the preservation of historic or architecturally important buildings.
3. The Conservation Element of San Anselmo’s General Plan B 5 of Conservation and Environmental Policy Guidelines Conservation Goals requires the protection of unique historic sites.
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5. Constructed in 1905, the building is 108 years old and built in a simple Victorian style. It is the only 3-story, Victorian live/work building remaining from that era.
6. It was constructed on the San Rafael Olema Road, now known as Sir Francis Drake Boulevard, within easy access of the San Anselmo Train Station, the conjunction of all roads and train tracks from the North, South, East and West. It is the oldest building remaining from when San Anselmo was truly the “Hub City” in Marin County.

7. The building always housed mixed uses, live/work arrangements, including in 711/713C a French Bakery where the baker, his wife and three daughters lived, baked and sold baked goods from approximately 1911 to 1943. After that, 711/713C housed antique sales/residence and cabinetmaker/residence into the mid 1950s. The building is an element of a culture where service industries were provided to the public on a live/work basis.

What Are The 2010 Building And Fire Code Requirements For Such Existing Designated Use?

- The occupancy category of the building is Category II. (CBC § 1604.5, at p. 8)
- The occupancy group for both apartment houses and also live/work units is **R-2**. (CBC §§ 302.1 at p. 59, 310.1, at p. 71). Live/work units are governed by CBC § 419, at p. 123.
- There is no separation requirement between R-2 occupancies per Table 580.4, at p. 157 and separation requirements do not apply to live/work units when the live/work unit is in compliance with § 419. (CBC § 419.2 at p. 123)

CBC § 419.5 requires the live/work unit to comply with § 907.2.9 as to a fire alarm system and § 903.2.8 as to a fire sprinkler system.

No Fire Alarm System is Required. CBC § 907.2.9, at p. 298, requires a fire alarm system in R-2 occupancies as set forth in § 907.2.9.1 and § 907.2.9.3.

CBC § 907.2.9.1, at p. 298-299, 325, requires a fire alarm system where: 1. Any dwelling unit is located three or more stories above the lowest level of exit discharge; 2. Any dwelling unit is located more than one story below the highest level of exit discharge serving the dwelling unit; 3. The building contains more than 16 dwelling units; or 4. Congregate living facilities or congregate residences with more than 16 occupants.

Since Greene's live/work occupancy does not fall in any of the defined categories, CBC § 419.5 does not require a fire alarm.

No Automatic Sprinkler System is Required. CBC § 903.2.8 of both the CBC and the CFC governs the installation of an automatic sprinkler system.

Pursuant to SAMC 3-3.810, the Town amended § 903.2 to require the installation of a fire sprinkler system in four specified circumstances. Those circumstances are:

1. Every newly constructed building and facility;
2. In all buildings which have more than fifty per cent (50%) floor area added or any "substantial remodel" as defined in this code, within any 12 month period. Exceptions may be granted by the Fire Code Official when alternate means of protection are installed as approved by the Fire Code Official.
3. In all buildings except R-3 occupancies, in excess of 3,000 sq. ft. which have more than ten per cent (10%) floor area added within any 12 month period. Ex-

ceptions may be granted by the Chief when alternate means of protection are installed as approved by the Fire Code Official.

4. A change in the use of a structure that results in a higher fire or life safety exposure when the square footage of the area changing use is more than 50% of the square footage of the building.

Because the occupancy and building do not qualify under any of the four circumstances specified in the Town's amendments to § 903.2, CBC § 419.5 does not require an automatic sprinkler system. The above requirements for fire protection do not apply to the uses of the building that have existed since 1905, nor are they triggered by any increase in the building's foot print, which remains the same now as it has been for the last 108 years.

- Floor Space. Pursuant to Table 503, at p. 150 of the CBC, construction Type V-B allows for a maximum of 7,000 sq. ft. per floor. In contrast, no floor of the building has more than 1,810 sq. feet, well under the CBC maximum.
- Dwelling Height. CBC § 1003.2, at p. 327, requires that minimum ceiling height be 7'6". The 7'6" limit is subject to the exception set forth in § 1208.2, at p. 598. The § 1208.2 exception applies "where beams or girders project below the required ceiling height. In such case such projections may be as low as 7'0."

The ceiling height of 713C unit is 7'8". The clear height of the two beams is 7 feet.

Therefore, the height of 713C complies with CBC requirements.

- Single Exit is Authorized. Pursuant to CBC § 1004.1 and Table 1004.1.1 at p. 329, for residential application 200 square feet per occupant is allowed. Pursuant to CBC § 1015.1 and Table 1015.1 at pp. 349-350, the maximum occupant load for one exit or exit access doorway is 10. The occupant load calculation for 713C is 7 (6.65 rounded up).

Therefore, the CBC authorizes a single exit from the first floor.

- Door width and height. The CBC requires a minimum 6'-8" high door with a minimum width of 34 inches per section 1132A.3, at p. 398.

Owner proposes a modification that will provide the height of the first floor exit door to be 6'8."

- Landing at the door. CBC allows for 36 inch landing per section 1008.1.6, at p. 337. Section.

Owner proposes a modification for the first floor exit door that will provide such landing.

- Accessibility. Accessibility standards do not apply for dwellings constructed for first occupancy prior to March 13, 1991 per CBC § 1102A.2, at p. 373.

Changes requested by San Anselmo's Building Department

1. Existing Floor Plan: Provide dimensions for all the wall layouts and cabinets and fixtures in all the rooms. The drawings submitted provide dimensions necessary for a Conditional Use Permit Application.
2. Structural Calculations: Provide a structural analysis of the framing (CBC 3408.4)
This item relates to a specific structural member. Structural calculations for issuing Conditional Use Permit are not required. Owner will provide the beam calculations as part of the Building permit application.
3. Main Door: Provide corrections to main door and French doors to comply with CBC
Corrections to main door are shown on sheet A3.1
4. Provide all tempered glazing per CBC.
This is an existing unit. There is no retroactive code requirement for such provision.
5. Provide Room finishes.
Finishes for first floor are listed in the submittal
6. Address: The unit must have an address number.
Address number will be placed on the West elevation of the building as shown.
7. Energy: Form CF-6R- There is no retroactive code requirement for such provision.
8. Height: ceiling height issue:
Existing height is above minimum height required by Code.
9. Driveway and bio-retention, materials approved by PWD:
This is an existing driveway since 1905, has been used continuously, and is located adjacent to San Anselmo's Creek. The pervious surface of the existing driveway responds to the intent of the sustainability requirements and contributes both to the health of the creek and to flood mitigation. Further, there is a bio-retention area that serves the driveway.
10. Paved Path. This is an existing path serving the building since it was built.

Owner proposes Yard Shed area:

The Owner proposes a shed area abutting the East property line with a total plan area of 60 square feet and height aligning with the existing barn's eaves, less than the code 30 foot building height limit. The existing tree will be retained.

The external surface area of the storage walls will provide a green wall that will act as an air filter to purify the air in the neighborhood that is polluted by Sir Francis Drake, Center Avenue, San Anselmo Avenue, the San Anselmo Fire Department and the San Anselmo Transit Center. The base of the filter will hold a small reserve of water. The re-circulating water will be pumped from that basin up to the top of the shed roof and flow down through the bio-filter to nourish the plants that are hosting the beneficial purification on the surface of the walls. As the basin needs occasional maintenance, an existing drain will serve that purpose.

Covered with hydroponic plants, soil free and water based, acting as a living air filter, the shed walls will remove common contaminants, improve the air quality and noise pollution of the immediate neighborhood. The biological process will break down pollutants into their benign components and water. Clean air will be distributed throughout the neighborhood.