

The regular meeting of the San Anselmo Planning Commission was called to order by Chairman George Buckle at 8:00 p.m. on March 20, 1978, in Room 6 of the Isabel Cook Community Center. Representing Town Staff: T. J. Robbins, Associate Engineer/Planner, and Lynn McGovern, Planning Technician.

1. ROLL CALL

Commissioners Present: Buckle, Goltz, Harle, Kapranos, Olive, Ollinger, Ragan

2. APPROVAL OF MINUTES

The Commission agreed to defer the approval of the minutes of March 6, 1978, and March 13, 1978, until the end of the meeting.

3. NEW BUSINESS - PUBLIC HEARING

A. Proposal to Amend the Municipal Code to Allow Public Buildings and Public Uses in Residential Zones With a Use Permit

Mr. Robbins explained to the Commission that this amendment would give the Town control over what public uses are allowed in R-1 zones. Each application would be treated individually. He also said that the State Code does not allow for emergency measures for allowing uses, only if it prohibits them. Regarding the Yolansdale School site, Mr. Robbins said if the Commission approved this amendment, the Town Council would have to hold two meetings on it, and then there would be a 30nday waiting period. Therefore, nothing would be final until about mid-May.

Lorraine Ferrarese, 24 Elm Avenue, showed the Commission two photographs of children in the playground of Yolansdale School. She said a use permit application for the San Anselmo School District would be met with much public opposition because there is too much traffic there already.

Lorraine Gates, 28 Elm Avenue, agreed that traffic is a critical problem in this area. There are already eight white lines for parking at the school, although approximately 24 cars park there daily, and four tetherball courts have been removed. She feels the General Plan was developed to show the Town where it was going with its planning, and now it appears to be being changed for the School District.

Commissioners Buckle and Ragan told the audience that traffic is an issue to be taken up with the Police Department and Town Council.

Mr. Robbins explained that the Environmental Review prepared by staff has to do with an ordinance change only, not the Yolansdale site. It references the Town as the whole environment. He said it is difficult to review projects without specifics, i.e., noise levels depend on the use. Each specific project, however, would either be eliminated or mitigated with the use permit application.

Commissioner Ollinger said he would have answered some of the questions in the Environmental Review Checklist differently, i.e., Item 8 - Land Use: Maybe; the proposal may result in an alteration of the present or planned land use of an area (staff answered, no); Items 11 and 12 - Population and Housing: Maybe; the proposal may alter the population or affect the housing situation (staff answered, no); Item 13d - Circulation: Maybe; there may be alterations to present patterns of circulation (staff answered, no); Item 14 - Public Services: Maybe; there may be an effect upon public services (staff answered, no to Fire and Police protection and schools); Item 16 - Utilities: Maybe; the proposal may result in a need for alterations or new utilities (staff answered, no).

Commissioner Olive expressed concern over changing the General Plan. She feels if this amendment were approved, the Commission would be opening the door with controls, but still opening a door that was not considered in the General Plan.

Commissioner Goltz explained that Section 10-3.2004 of the Municipal Code says what the Commission must find in order for a use permit to be granted. It is consistent with the General Plan. The theory is that the Planning Commission will follow this requirement in the future, and if it cannot make a finding, the use permit will not be granted.

Commissioner Goltz said that when the original motion was made for this proposed amendment, he meant to say, "to allow public buildings and public uses other than those described in Section 10-3.502(d)", which reads under Uses Permitted, "Public parks, schools, playgrounds, libraries, firehouses, and other public buildings and public uses included in the Master Plan." In other words, if the use is not in the General Plan, then a use permit is necessary.

Commissioner Goltz said that public uses and public buildings are only allowed in four places presently (Town Hall, Isabel Cook School, the new Firehouse and the parking lot at Pine and San Anselmo Avenues); with this ordinance change, a use permit could be applied for.

M/S Goltz, Ragan, that the Planning Commission accept the Negative Declaration, dated March 10, 1978, as amended at this meeting: (1) Under Section 1, Description of Project, to read as follows: "To allow public buildings and public uses other than those described in Section 10-3.502(d) of the Municipal Code in R-1 zones with a use permit"; and (2) to change staff's answers to read as follows: Item 8 - Land Use: Yes; the proposal may result in an alteration of the present or planned land use of an area; Item 11 - Population: Maybe; the proposal may alter the population; Item 13(a) - Vehicular Movement: Yes; the proposal may generate substantial vehicular movement; Item 13(b) - Parking: Yes, the proposal may result in effects on parking; Item 13(c) - Transportation: Maybe; the proposal may result in an impact upon existing transportation systems; Item 13(d) - Circulation Patterns: Maybe; the proposal may result in alterations to present patterns of circulation or movement of people or goods; Item 13(f) - Traffic Hazards: Maybe; the proposal may increase traffic hazards to motor vehicles, bicyclists or pedestrians; Item 16 - Utilities: Maybe; the proposal may result in the need for new systems or substantial alterations.

Motion was passed unanimously.

Mr. Robbins said the General Plan is not pointed to prohibit a certain use on a particular site. Controlling land use is a goal of the Plan and the use permit application would be an implementing document to the General Plan.

Commissioner Goltz cited a well known case where a variance was granted by a Planning Commission to allow a commercial use in a residential neighborhood. The courts found this illegal. If a professional/administrative use is in a residential neighborhood, then that means the zoning is being changed by a use permit. This is liable to litigation. For that reason, Commissioner Goltz said he would turn down his previous motion to amend the Municipal Code.

Mr. Robbins said he had contacted the Town Attorney, Mr. Hadden Roth, who feels it is legal to make this amendment. He also pointed out that the Code now allows such uses as a generating plant and private schools which are basically commercial activities in an R-1 zone with Town concurrence. Public facility uses, as this amendment proposes, would seem appropriate and not a zoning variance.

M/S Goltz, Olive, to not refer the proposed amendment to allow public buildings and public uses in residential zones with a use permit to the Town Council, because it is not consistent with the residential concept of the R-1 and R-2 Districts.

Motion was passed unanimously.

#### 4. NEW BUSINESS - USE PERMITS

- A. U-502 - Kenneth P. Short, 1218-B San Anselmo Avenue, A/P 7-053-20, application to permit a delicatessen with the off sale of beer and wine.

Kenneth P. Short, applicant, and Helen Shapiro, attorney, present.

Holly Ynostroza, 1300 San Anselmo Avenue, protested the public hearing because the notices sent to the property owners had referred to 1226 San Anselmo Avenue as the applicant's address, rather than 1218-B San Anselmo Avenue.

Mr. Robbins told the audience that the property owners in the area of this property had been notified by telephone on either March 17, or March 20, of the address correction; therefore, staff felt there was no reason to postpone the hearing.

Ms. Ynostroza said her basic objection to this use has to do with the heavy traffic off of Center Boulevard going down San Anselmo Avenue which is practically forced to be one-way because cars are parked on either side of the road. She feels that only a non-traffic generating type of business should be at this location.

Ms. Shapiro said 1218-B San Anselmo Avenue is a commercially zoned location. It is a neighborhood type of business, even though some people will drive. She said it is different than a grocery store as there will be no heavy carry away purchases.

Mr. Short explained to the Commission that the owner of the building has had several types of businesses there previously, i.e., a swimming pool company, handbag manufacturing firm, etc., and these types of businesses at this location did not do well. A business, such as a delicatessen, is needed there to generate revenue.

Commissioner Buckle told the audience that Mr. George Sirk of 1214-B San Anselmo Avenue had written a letter regarding the traffic problem in this area and suggested painting a yellow zone in front of 1218-B San Anselmo Avenue.

Mr. Robbins said there are other traffic generating uses which are allowed in C-1 Districts without a use permit, i.e., a bakery, which could possibly generate more traffic than a delicatessen, a laundry and cleaning agency, etc.

Commissioner Goltz said the Planning Commission must make a finding that the granting of the use permit will not be detrimental to those residing in the neighborhood, per Section 10-3.2004 of the Municipal Code. This delicatessen will be a detriment because there are not enough parking spaces for a business there; the Town just recently granted a parking variance for a lot across the street where a building is being constructed; and traffic is heavy.

Commissioner Olive agreed with Commissioner Goltz, but said there is a question of equity here. "Our Store" is already there generating traffic.

Commissioner Goltz said that "Our Store" did not need a use permit because a grocery store is allowed in a C-1 District without a use permit. The area is an area of continuing traffic problems caused by poor zoning, and there is an expanding traffic use. The Town has aggravated that condition by not following the ordinance and allowing parking variances.

Ms. Shapiro said the property owner agreed verbally that he would line the parking area for stalls and have directional arrows to make maximum use of the space. It is a family business so there would be no employee parking.

M/S Ragan, Kapranos, to approve U-502, application to permit a delicatessen, for Kenneth P. Short, 1218-B San Anselmo Avenue, A/P 7-053-20, with the following conditions:

1. Hours of operation will be between 11:00 a.m. and 9:00 p.m.
2. Employee parking will be off street.
3. This use will be reviewed within six months, or earlier if there are legitimate complaints found by the Public Works Department.
4. This use permit is personal to the applicant and not transferable or assignable.

Motion carried: AYES: Buckle, Harle, Kapranos, Olive, Ragan  
NOES: Goltz, Ollinger

Applicant was advised of the ten day appeal period.

Commissioner Ragan said he purposely eliminated the off-sale of beer and wine from the motion.

- B. U-503 - George Martinis, 112 Spaulding Avenue, A/P 6-092-03, application for the on-sale of alcoholic beverages in a restaurant.

George Martinis, applicant, present.

Commissioner Buckle asked if the hours of operation are going to be different than the last restaurant's. A gentleman from the audience said that the previous restaurant had only served lunch on a banquet basis. For this reason, heavy traffic occurred at scheduled times.

M/S Ragan, Goltz, to approve U-503, application for a use permit for the on-sale business of alcoholic beverages, for George Martinis (Symposium Restaurant), 112 Spaulding Avenue, A/P 6-092-03, on the basis that this will not be detrimental to the neighborhood in that reasonable parking is being provided for this existing building area; and approval will afford property rights in allowing a reasonable and previous use at this location, with the following condition: That valet parking shall be provided.

Motion was passed unanimously.

Applicant was advised of the ten day appeal period.

## 5. MATTERS FOR CONSIDERATION

- A. Downtown Rezoning Study - specifically San Rafael and Tamalpais Avenues.

The Commission agreed to continue this item to the regular meeting of April 3, 1978, under Old Business.

## 2. APPROVAL OF MINUTES

- A. March 6, 1978

Page 2, Item 4-A, second sentence, change to read: "He said the School District had a lease option of six years at the Isabel Cook site, but six . . ."

Page 2, Item 4-A, fifth paragraph, second sentence, change to read: "They hope the Town would relocate . . ."

Page 2, Item 4-A, between paragraphs 16 and 17, add: "It was noted by Commissioner Olive that this was a period of exceedingly heavy rainfall."

Page 3, Item 4-A, paragraph 27, second sentence, change to read: ". . . he is involved with coaching the children in sports at that site and . . ."

Page 3, Item 4-A, paragraph 31, under Item 13d, change to read: "there would be alterations to present patterns of circulation because of a new . . ."

Page 4, Item 4-A, paragraph 33, delete entire second sentence.

Page 4, Item 4-A, paragraph 36, Item 19, change to read: "Recreation, the applicant should consider alternatives to locating the office elsewhere in the District in the light of what was said at this public hearing."

Page 5, Item 5-C, paragraph 7, change to read: ". . . parking variance, and that the Planning Commission should hold fast to the letter of the Zoning Ordinance particularly since we are considering rezoning of this area. because . . ."

Page 6, Item 5-D, paragraph 8, change to read: "Commissioner Olive said that she feels the hardship is the fact that the applicant is on a corner lot and there is less safety there compared to the neighboring lots."

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Page 6, Item 5-E; delete paragraph 4.

Page 7, Item 5-G, paragraph 7, second sentence, change to read: "If parking for this house came off Cypress Avenue . . ."

Page 7, Item 5-G, paragraph 8, first sentence of the motion, change to read: ". . . 2' sideyard setback requiring a 6' sideyard variance for a house, and a 0' rearyard setback requiring a 20' rearyard variance for parking . . ."

M/S Ragan, Ollinger, to approve the minutes for March 6, 1978, as amended.

Motion passed unanimously.

B. March 13, 1978

Page 2, Item 4-A, paragraph 6, last sentence, change to read: ". . . and then the law was interpreted differently so that it was required."

Page 2, Item 4-A, paragraph 11, first sentence, change to read: "Commissioner Ollinger said the interpretation of the ordinance on the books is confusing."

Page 3, Item 5-A, paragraph 3, delete the entire last sentence.

Page 4, Item 5-A, paragraph 15, add to the second sentence: ". . . committee for the implementation of the Conservation Element of the General Plan."

Page 4, Item 5-A, between paragraphs 19 and 20, add: "Commissioner Buckle abstained because he felt the processes the Planning Commission is using to make these amendments are premature."

M/S Goltz, Olive, to approve the minutes for March 13, 1978, as amended.

Motion passed unanimously.

5. ADJOURNMENT

The regular meeting of the San Anselmo Planning Commission was adjourned at 10:41 p.m. to the next regular meeting of April 3, 1978.

*Lisa A. Burclin*  
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Planning Commission Secretary