

## PLANNING COMMISSION MEETING OF JULY 18, 1988

The regular meeting of the San Anselmo Planning Commission meeting was called to order on July 18, 1988, at 8:00 p.m. in the Council Chamber by Chairman Hayes. Staff present: John Kottage, Director of Public Works/Planning, Hadden Roth, Town Attorney and Lisa Newman, Planning Consultant.

## A. ROLL CALL

Commissioners present: Harle, Julin, Yarish, Sias, Hayes  
Commissioners absent: Manning, Kroot

## B. SPECIAL ITEMS - Meet on site at 7:00 p.m. to review colors.

AR-6 - Quarry Mountain Incorporated, End of Tomohawk Drive, Nos. 177-220-50, 177-220-40 and 177-250-41, approval of building colors.

The applicant was present.

Lisa Newman presented the staff report.

Doug Elliott thought the colors complied to the Town Council requirements and would like to be able to add dark amber tones to the colors as necessary.

Johnathan Braun, 479 Scenic, attended the site to view the colors and felt the gray was unacceptable. He felt the two darker colors were acceptable.

Eliza Wingate, 215 Brookside, said the two darker colors were acceptable but the blues and grays were not.

Commissioner Yarish agreed the two brown colors were fine with the trim being a lighter color. He also thought the burnt amber oil was acceptable along with the roof colors.

Commissioner Sias abstained because he was unable to make it to the site.

Commissioner Julin and Commissioner Harle echoed Commissioner Yarish, adding any of the dark colors of warm tones would be acceptable.

Chairman Hayes said he is seeking colors that blend into the hillside; earth tones, more brown and no blue or gray tones.

John Kottage noted that the Town Council directed that specific colors be mentioned as part of the record.

Lisa Newman suggested that the applicant provide the color names and numbers of the browns and it can be incorporated into the minutes. It is clear that the applicant is to avoid blue and gray tones and that the brown tones are acceptable.

M/S Yarish, Harle to approve AR-6 Quarry Mountain Incorporated, End of Tomohawk Drive, Nos. 177-220-50, 177-220-40 and 177-250-41 the following wall and roof colors: The two brown samples painted on the wall, (specific color names and numbers to be submitted to staff by the applicant) and blends of these colors, as well as a clear oil finish with a dark tint. The roofing materials are approved.

Ayes: Yarish, Julin, Harle, Hayes  
Abstain: Sias

Applicant advised of the ten day appeal period.

M/S Yarish, Harle, to continue Design Review of AR-6 with regards to the five other colors to be presented by the applicant prior to the next meeting of July 25, 1988.

All ayes. Motion passed unanimously.

C. CONTINUED PUBLIC HEARINGS

1. U-621 - Church of Divine Man, 1381 San Anselmo Avenue, A/P NOS. 7-052-55, 7-052-56, 7-052-57, 7-052-58 and 7-052-59, consideration of revocation of the use permit granted in May, 1987, for a church in an R-1 District.

The applicants were present and Mr. Corlie, Counsel for the Church was also present.

Lisa Newman presented the staff report.

Mr. Corlie stated that if the Town signed an agreement to hold the Church harmless they would reinstall the playground equipment. He noted that he did receive a copy of the staff report but did not receive the attachments. He said if the Commission was to consider the church a nuisance it would be important to get an understanding of the findings.

Hadden Roth said that any determination made concerning the behavior of the church would have to be based on factual information. The framework for a decision is contained on page 4, paragraph 1 of the staff report as follows: that under the circumstances of the particular case, the use would be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood, or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the Town.

Mr. Corlie requested a copy of the attachments.

Mr. Roth was hesitant about the Commission proceeding until the applicant's counsel had adequate time to read the attachments and thus be able to respond adequately. Mr. Roth added that he has however, been advised by staff, that the essence of what is contained in the attachments is set forth in the staff report.

Mr. Corlie said they are willing to proceed. It is his understanding based on the staff report that the purpose of this meeting is to get further testimony. It was decided that Mr. Corlie be given ample time to review the attachments to the staff report before proceeding with the continued public hearing.

The Commission therefor revised the order of the agenda to allow the applicant approximately thirty minutes to review the attachments.

D. PUBLIC HEARINGS

1. U-628 - Marilyn Izdebsky, 100 Shaw Drive, A/P No. 6-061-14, Use Permit for a dance studio.

The applicant was present.

Lisa Newman presented the staff report.

All the Commissioners agreed this was an ideal location for this use.

M/S Harle, Sias, to approve U-628 Marilyn Izdebsky, 100 Shaw Drive, A/P No. 6-061-14, use permit for a dance studio on the grounds that: The establishment, maintenance, or operation of the use applied for 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 such

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proposed use, or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the Town, and that the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner specifically: That there are no nearby neighbors except other uses of like kind and the capacity of the property is adequate to handle the use.

All ayes. Motion passed unanimously. Applicant advised of the ten day appeal period.

2. U-629 - The Child Center, 100 Shaw Drive, A/P No. 6-061-14, Use Permit for a full-day school program for children with learning problems.

The applicant was not present but Ms. Izdebsky said she will answer any questions if necessary.

None of the Commissioners had any objection to this application.

M/S Harle, Julin, to approve U-629 - The Child Center, 100 Shaw Drive, A/P 6-061-14, use permit for a full-day school program for children with learning problems for the following reasons: The establishment, maintenance, or operation of the use applied for 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 such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the Town, and that the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner; specifically that this is a school use that is compatible with the other school uses on the site and the absence of nearby neighbors makes any hazard or disadvantage an insignificant impact.

All ayes. Motion passed unanimously. There is a ten day appeal period.

3. C-219 - Pizza Hut of San Diego Inc., 810 Sir Francis Drake, commercial design review, alteration of the roof by removal of the cupola and changing to a "hip" roof.

The applicant was not present.

Lisa Newman presented the staff report and noted that the drawings also indicate new siding which is not part of the application or staff report.

There was no objection to removing the cupola and changing to a hip roof but the Commission did not want to take action on the siding.

MS Sias, Yarish, to approve C-219 - Pizza Hut of San Diego Inc., 810 Sir Francis Drake, commercial design review, alteration of the roof to remove a cupola and change to a "hip" roof on the basis: 1. It is functionally and aesthetically compatible with the existing improvements and the natural elements in the surrounding area; 2. provides for protection against noise, odors, and other factors which may make the environment less desirable; 3. Will not tend to cause the surrounding area to depreciate materially in appearance or value or otherwise discourage occupancy, investment, or orderly development in such area; 4. Will not create unnecessary traffic hazards due to congestion, distraction of motorists, or other factors and provides for satisfactory access by emergency vehicles and personnel; and 5. Will not adversely affect the health or safety of persons using the improvement or endanger property located in the surrounding area. The hip roof will more closely

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resemble the other commercial buildings in the area. This is limited specifically to the roof and does not include any changes in siding.

All ayes. Motion passed unanimously. There is a ten day appeal period.

E. APPROVAL OF MINUTES - June 27, 1988, July 5, 1988 and July 11, 1988.

June 27, 1988 and July 11, 1988 continued to July 25, 1988.

M/S Sias, Julin to approve July 5, 1988 minutes with the following amendments: Page 4, approval of minutes of June 20, 1988, from ... "They have proposed earth walls...." to ... "They have proposed concrete walls, stepped back in two stages in lieu of one large retaining wall."

Ayes: Harle, Yarish, Julin  
Abstain: Hayes, Sias

There was a 10 minute break.

The public hearing for Church of the Divine Man continued.

Chairman Hayes asked if the applicant has had sufficient time to read and be able to respond to the attachments.

Mr. Corlie said the major objections speak about the playground and he reiterated that the church would reinstall the playground if the Town would be liable and hold the church harmless. Regarding the traffic noise, they have attempted to resolve this by having a parking attendant and by encouraging ridesharing. They have adjusted the lights in the parking lot so as not to shine on the surrounding houses.

William De Bisschop, 91 Elm Avenue, believes this is a blatant misuse of the permit. He does not feel this is a neighborhood church. He complained about the lack of maintenance of the grounds and lastly wants to see homes built on this site and bring the neighborhood back to the R-1 status.

Lorraine Brown, 81 Elm Avenue, wanted to see the playground used for the children and questioned why Church of the Nazarene had to install swings but the Church of the Divine Man did not.

Paul Ferrarese, 24 Elm Avenue, said it was unfair that the neighbors have to attend so many meetings to state their feelings. His grievances are 1) the proposed use is not functioning as it said it was going to; 2) there is increased traffic in the neighborhood; 3) the current use is considerably different than that proposed.

Mary Ann Marsili, 26 Elm, had the following concerns: 1) Increased traffic; 2) playground should have children in it, not cars; 3) does not want increased growth in the neighborhood; 4) does not want her property value lowered.

Lorraine Ferrarese, 25 Elm, said that in previous meetings pictures and letters had been presented indicating their concerns. She said the Commission rezoned this property to R-1 after the closure of the Landsdale school.

Kathleen Waters, 84 Madrone, said she attends the church and doesn't feel the neighbors should complain.

Sarah Nome, 77 Alder, felt that this church is run as a business and not a church. That is why the neighbors are

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complaining. As a tax payer we have to subsidize this and it is not right.

Commissioner Yarish said there is a possible misrepresentation of the use intensity as originally applied for. He was in support of the 10 mitigations as listed in the staff report.

Commissioner Sias believes a nuisance exists and agreed with Sarah Nome about the church being run as a business. He said the hours of operation are more than originally agreed to; there is increased traffic, increased lighting due to late operating hours, loss of recreation equipment and play area. He feels that the church is growing and will continue to create more problems for the neighborhood.

Commissioner Harle said that certain standards were set for Church of the Nazarene and were brought forward for Church of the Divine Man because they professed to have the same use. If it was projected to exceed the uses of Church of the Nazarene then he did not think it would have been granted a use permit. He feels it has exceeded the charter and is a detriment to the neighborhood.

Commissioner Julin said a great deal of care was given to the use permit conditions for Church of the Nazarene for protection of the neighborhood. After listening to the neighbors tonight Commissioner Julin said the church has gone beyond the original use and therefore its activities constitute a nuisance to the neighborhood.

Chairman Hayes said the Commission thought they were approving a use similar to that of the Church of the Nazarene and there is no question now that a nuisance does exist. There are safety hazards due to excessive traffic, the noise generated by the cars is annoying for the neighbors, as well as the night lighting. With regards to the playground, he wondered what kind of liability insurance the Town had and how was this handled in the past.

Mr. Roth said the current general liability insurance held by the Town was \$100,000 deductible but there may be some special recreational policies available for this situation, but he would have to talk with the Town Council to see if the Council would be willing to take on the burden.

Chairman Hayes said the consensus was that a nuisance existed and asked for input from the Commissioners for suggestions to modify the existing use.

Commissioner Sias suggested limiting the number of night classes and staggering those evenings; the light should be shielded and lowered so as not to bother the neighborhood. He was in support of the church's suggestion of covering the windows and the volunteer parking attendant, although it may not be necessary if there is ridesharing. He did not think the Town would be able to monitor the cars using Center Blvd. The changes should be implemented within 45 days and there should be a six month review period.

Commissioner Harle endorses the comments of Commissioner Sias adding that the church agree to explore with the Town, the reestablishing the playground.

Commissioner Julin supports her colleagues and noted that the Church of the Nazarene did not seem to have any night meetings. She said she would not like to see more than two evening meetings per month.

Commissioner Yarish agreed with the comments of his colleagues and agrees to limiting the evenings to one or two per week.

Chairman Hayes responded to staff's suggestions for reducing the nuisances on page 4 of the staff report as follows: 1. limiting the number of people to 50 would only affect Monday through Wednesday evenings; 2. this would not be feasible because they are currently there 5 evenings and staff is suggesting limiting it to 4; 3. requesting the church to end activities at 9:00 p.m. rather than 10:00 p.m. would only be a reduction of an hour; 4. using Center Blvd as an alternative to San Anselmo Ave would be unenforceable; 5. feels there should be a more frequent review than annually; 6. ridesharing is unenforceable; 7. feels restoring the playground is a separate issue; 8-10. agrees with staff. He said the Commission approved what was thought to be a much lower intensity of use.

Hadden Roth commented that the standard for Commission action should be modification of the use sufficient only to curb the detriment to the neighbors and not more.

Commissioner Sias did not feel the staff mitigations would solve the problems and suggested limiting the number of parishioners to 30 to 40 for the night classes.

Commissioner Julin wondered if this use would have been approved in 1979 if there was a proposal for evening classes.

John Kottage said it appears that the Monday through Friday evening class activities are the key problem to the neighbors. Perhaps limiting evening class to two nights a week with the classes ending at 9:00 p.m. and a maximum number of 40 people attending each class would solve the problems.

M/S Sias, Yarish, to direct staff to prepare a resolution to amend the use permit U-621 - Church of the Divine Man, 1381 San Anselmo Avenue, A/P nos. 7-052-56 through 59 to mitigate conditions now causing a nuisance to the neighborhood. Those conditions are included on page 2 of the Staff report dated July 18, 1988, item 1, 2, 3, 4, 5, 6, 7, 9 (excluding 8). The nuisance be mitigated with the development of new conditions as follows:

1. Limiting the number of people at the church - maximum number to 40;
2. That the church be permitted to operate 2 nights a week, from days Tuesday through Friday, hours of operation be limited to a firm closing time of 9 p.m.;
3. This permit be reviewed in six months from the time the new conditions are implemented;
4. Lighting on property be shielded so as not to shine outside the parking lot and disturb the neighborhood;
5. A parking attendant assist with the parking of cars in the church lot at night;
6. The Town investigate with the church the possibility of continued use of the playground;
7. Weekend hours continue as stated in the church schedule;
8. The church provide routine maintenance of grounds and landscaping;
9. The church continue to encourage the ride sharing program;
10. The church be given 45 days from the adoption of the resolution to implement the new conditions with the amendments as stated;
11. The previous 10 stipulated conditions to continue to be enforced unless superseded by the above conditions;

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Commissioner Sias requested staff to include in the resolution wording for special events.

All ayes. Motion passed unanimously.

There was discussion among the Commission and staff as to whether or not all the items on the agenda would be heard this evening because of the already late hour. It was decided the Brennan application would probably take considerable time and therefore items C-3 and C-4 should be continued to the meeting of August 1, 1988.

M/S Sias, Yarish to continue C-3, V-2225 - Eric Ainsworth, 95 Tamalpais Avenue, A/P 5-242-11, a 12 foot rear yard variance to construct a two car garage within 8 feet of the rear property line with a six inch roof overhang.  
and;

C-4, V-2172 - Libby Hayes, 14 Elm Court, A/P 7-081-15, a 15'9" rear yard variance and a 3'3" south side yard variance for an accessory building addition to be within 4'3" of the east rear property line and within 4'9" of the south side property line, with an 18 inch roof overhang. AFTER THE FACT - to the meeting of August 1, 1988.

2. V-2238 - Robert W. Brennan, 444 Scenic Avenue, A/P 7-031-12 and 7-031-13, a third story variance, a 9 foot front yard variance to construct a garage within 11 feet of the front property line, and a 3 foot front yard variance to construct an open deck within 11 feet of the front property line.

The applicant was present.

John Kottage presented a report on the drainage in the area and more specifically of what staff is proposing for this application. He added that he was not sure how the site could be developed without losing the two parking spaces and there should be a roadway bond.

Johnathan Braun, 479 Scenic, wondered how the water will be brought into the system. Mr. Kottage said it could be done by a grate or a slope to the driveway.

Commissioner Sias asked if the applicant can be required to improve the driveway at 448 Scenic. Mr. Kottage affirmed.

Robert Brennan said he was sympathetic with the residents to the drainage problems however the drainage will be dealt with at the building permit level as stated in the staff report. He said the driveway of 448 Scenic was built on his lot, that the uphill neighbor does not have off street parking and he feels his request for off street parking is logical.

Julie Murray, 445 Scenic, said her main concern is the driveway as water comes down the center of the street. She would like to see the Town consider a concrete open drainage system and perhaps update the current culvert.

Hannah Hochstaedter, 460 Scenic, said water now runs in the front of her deck.

Millie Goodman, 445 Scenic, would like to have the culvert repaired.

John Kottage said the culvert now only goes from one side of the road to the other. If it could be extended past the house by a down drain that would be a possible mitigation measure. This will capture the water going down the road.

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Johnathan Braun, 479 Scenic, said the driveway creates the need for a large retaining wall, creates the necessity for a third story and removes the two existing parking spaces. Perhaps on street parking needs to be investigated which would be a benefit to the neighborhood.

Commissioner Julin was inclined to support the application with the conditions as specified by staff but because of the late hour would like to continue.

Commissioner Yarish questioned the stairs in the garage, stating they show up in the east elevation but not sure how it would work in the site plan. Mr. Brennan said they were directly under the existing stairs at the west wall of the garage and the stairwall will penetrate the retaining wall.

Commissioner Yarish said he was satisfied with the drainage although parking was still a problem with no solutions.

Commissioner Sias asked that the application be continued because of the late hour.

Chairman Hayes said he would like to see a landscaping design for the next meeting. Mr. Kottage suggested plans showing a stepped back retaining wall.

M/S Yarish, Sias, to continue V-2238 - Robert W. Brennan, 444 Scenic A/P 7-031-12 and 7-031-13, a third story variance to construct a garage within 11 feet of the front property line, and a 3 foot frontyard variance to construct an open deck within 11 feet of the front property line to the next meeting.

All ayes.

5. V-2239 - Gary and Fani Hansen, 27 and 37 Indian Rock Road, A/P nos. 177-250-21 and 177-250-22, variance to construct an access driveway to 27 Indian rock Road across 37 Indian Rock Road. CONTINUED TO AUGUST 15, 1988.

F. The regular meeting of the San Anselmo Planning Commission was adjourned at 1:00 a.m. to the special meeting of July 25, 1988.

BARBARA CHAMBERS  
ADMINISTRATIVE SECRETARY/TECHNICIAN