

**PLANNING COMMISSION MINUTES
MAY 15, 1989**

The Planning Commission meeting of May 15, 1989 was called to order at 8:00 p.m. by Chairman Sias in the Council Chamber. Staff present: Lisa Wight, Planner.

A. ROLL CALL

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

B. PUBLIC HEARINGS CONTINUED

1. **V-2274 - Calvin and Linda Ahlgren, 31 Kemp Avenue, A/P 7-171-06**, a 17 foot frontyard variance and a 5 foot west sideyard variance to construct a two car carport within 3 feet of the front property line and the west side property line, with a 1 foot roof overhang - CONTINUED TO JUNE 5, 1989.

2. **PP-12 - Oak Springs Partnership, End of Oak Springs Drive, A/P 5-011-60**, review of initial environmental study and determination of whether a Negative Declaration or an Environmental Impact Report will be required for the proposed four-lot split for development of four single family dwellings - CONTINUED TO JUNE 5, 1989.

3. **U-634 - Stapleton School of Dance, at Devonshire Hall at Sir Francis Drake High School, 1327 Sir Francis Drake Boulevard, A/P 5-231-17, 7-041-44**, use permit for a private school in an R-1 district and initial environmental review - CONTINUED TO JUNE 5, 1989.

C. PUBLIC HEARINGS

1. **U-629/U633 - Lenny Lerner, 1535 Sir Francis Drake Boulevard, A/P 5-153-01**, six month review of use permit to allow: 1. automotive repairs; and 2. cellular telephone sales, service and installation; and review of current proposal for two canopies on the west side of the building.

Joel Lerner was present.

Lisa Wight presented the staff report.

Commissioner Julin noticed several signs on the site and wondered if they were in compliance with the sign ordinance. Ms. Wight said there is approval for four signs on site. If the applicant has exceeded the limit she will notify him.

Commissioner Yarish wanted to see an elevation drawing of the canopy.

Joel Lerner said the canopy is required to park the cars to allow them shade so water spots do not get on the car. Therefore the canopy only needs to be the height of a car and long enough to cover two vehicles at a time. The canopy is best suited on the west side because of the water outlet.

Commissioner Yarish said thought the applicants have complied with their use permit but did not think the current proposal for a canopy was well designed and would be a visual impact on the neighbors. He added that the canopy would create overdevelopment of the site

Commissioner Kanis thought the color was too bright and was in favor of moving the canopy closer to the building.

Commissioner Julin thought the color was too bright and did not think the canopy was well designed, adding that this does not seem to be a complete application because the plans are not drawn to scale. She said this site is required to

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have a low use intensity however this business has constant requests to have more added to site.

Chairman Sias felt the applicants have complied with their current use permit but did not feel he had sufficient information to approve the canopy. He would like to see elevations, scaled drawings, a more subdued color and alternative to what is proposed. He would also like to have staff respond to the number of sign approved for the site.

George Silvester, Attorney for Mr. Lerner asked if this application could be continued until June 19, 1989, at which time his client will bring in the additional information requested.

Commissioner Julin said it would be helpful to have a complete site plan included in the staff report.

M/S Julin, Kanis, to continue U-629/U-633 - Lenny Lerner, 1535 Sir Francis Drake Boulevard, A/P 5-153-01, six months review of use permit to allow: 1. automotive repairs; and 2. cellular telephone sales, service and installation; and review of current proposal for two canopies on the west side of the building. This is continued to June 19, 1989 to allow staff to review permitted signage compared to existing conditions and to allow the applicant to revise plans to give complete information for color, architecture, elevations, and a complete site plan.

Ayes: Kanis, Julin, Sias
No: Yarish

2. V-2282/C-223 - James R. and Donna M. Hastings, 18 San Rafael Avenue, A/P 7-162-15, a 6 foot west sideyard variance and a 2 foot rearyard variance to provide on-site parking for a professional use within 2 feet of the west side property line and within 18 feet of the rear property line; a parking variance for the required number and size of parking spaces; and design review of the parking plan.

The applicant and Brian Wittenkeller, his Landscape Architect, were present.

Lisa Wight presented the staff report.

Chairman Sias asked if the hedges proposed were draught resistant. Mr. Wittenkeller affirmed and noted that they were very hardy in this area.

Chairman Sias wondered if the applicant has contacted the owners of the Bridge Street parking lot to inquire about available parking. Mr. Hastings said he has not been able to contact them.

Chairman Sias asked if there was any way of projecting the number of vehicles if in the future Number 16 also wanted to have the professional use. Ms. Wight said there is no way of projecting that however there is usually adequate parking currently available up from Number 22.

Commissioner Julin inquired about the square footage of the building. Ms. Wight said it is 1,400 square feet.

Mr. Hastings said there is availability on the property to hold the six required parking spaces but that would eliminate two on street parking spaces. For the benefit of the audience Mr. Hastings read the letter from Brian Wittenkeller. He said he met with the neighbors and is willing to provide a side fence for the neighbor at Number 22. Mr. Hastings said he would like to use bricks instead of cement in the sidewalk area fronting San Anselmo Avenue.

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Ms. Wight said that staff would agree to the bricks because it would be more aesthetically pleasing.

Cheryl Mondoux, 16 San Rafael, asked the Commission to review the Professional use in the area. She feels the most appropriate use for this property is R-1 and is concerned that if it is used as professional it will set a precedent. She also wanted to know what assurance they had that the use would not increase from 2-3 clients a day. If this application is approved by the Commission, she feels that the applicant should provide fencing for her side as well as number 22. She also appreciated the comments of staff regarding the shading of the tree.

Barbara Trenan, 22 San Rafael, echoed the comments of her neighbor at 16 San Rafael and added that this would be a gross overdevelopment of the site.

Scott Yates, 837 San Rafael Avenue, thought this use would increase the traffic in the area and did not want to see businesses moved from the downtown area. He also felt this would be setting a precedent.

Roger Dormer, 61 San Rafael, was concerned about the size of the business in such a small space and wondered if there was a way to control the amount of growth in the area. He questioned if there will be a sign for the business and if so, he would want it to have a low key residential appearance.

Lisa Wight said that one, four square foot sign is allowed for this site and staff can approve the design review of the sign. However, if the applicant proposed an internally lit sign, it would have to come before the Commission.

Commissioner Julin praised Mr. Wittenkeller on his proposal however is still of the opinion that this use is too intense for the site. She also thought the size of the lot was substandard for the zone, noting that this lot could only accommodate one to two cars adequately. She was in support of local business and local employment but feels this is an R-1 neighborhood and therefore can not support this application.

Commissioner Yarish did not feel approval of this application would be considered precedent setting because none of the downtown businesses north of Pine Street have on street parking. This site has both on site parking and on street parking available for the employees and clients. Also, the terms of the new General Plan relating to zoning eliminate the possibility on any kind of "sprawl". The only change to zoning in the General Plan is for "down zoning" from multi-family to less density. Therefore this property will have no impact on potential "up zoning". He thought the use was appropriate for the site and if the use does increase in the future, the neighborhood could notify staff and then the Commission would be able to take appropriate action. He said that shade master trees are deciduous which would entail extra maintenance for the neighbors in addition to providing increased shade at certain times of the year. He thought that perhaps the type of tree could be rethought.

Chairman Sias thought the landscaping plan was excellent but he echoed the comments of Commissioner Julin in that the intensity of the use for this property is too much for the site. He thought that this proposal violates the notion of a buffer zone in spite of the excellent efforts with the landscaping plan. Adding additional parking to a street that is already suspect would not be correct. He wondered if perhaps this would be better as a one attorney office which would then truly fit in with the residential neighborhood because there would be no need for the

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additional parking. The variances that are being asked for are proof positive that the use is too intense for this property. He thought that parking across from 6 Bridge Street might be a solution but at this time approving this application would only be aggravating the problem of moving more traffic down San Rafael Avenue. Therefore, he is unable to support this application at this time.

Commissioner Kanis would like to see parking arrangements made off site for the employees, if not across from 6 Bridge Street, then elsewhere, and see the on site parking utilized for clients.

Ms. Wight said if the applicant is being asked to use off street parking at another location, it should be noted that there has to be sufficient parking on that site as well.

Mr. Hastings said that he has responded to the questions and concerns of the Commission and public from the previous meeting and thought he has resolved the parking problem. He could accommodate six cars on the lot but it would eliminate two on street parking, therefore he has provided an alternative plan that he thought the Commission would approve of. He has moved parking to the rear and off the street, hired a Landscape Architect to provide screening and made the area not look like a parking lot. He is proposing to put in a fence at his expense for his neighbor. There is only one full time Attorney, two part time Attorneys and two Secretaries with approximately two to three clients per day. In order for him to afford property in San Anselmo he has to rent out space to the other attorneys. Even if the part time people were to work full time, no additional space would be required. There is adequate parking both on street and off to accommodate this use. The current plan he is proposing allows for three cars in the rear, one car unofficially in the garage, and saves the on street parking in front of the property. With regards to parking at the Bridge Street lot, there did not seem to be any available space and Stop N' Go does not want to relinquish anymore of their spaces. He said he has come before the Commission in good faith to try to comply to all the concerns and does not understand why there is still opposition. He said he would be willing to do whatever is necessary to get approval of the variance for parking.

Commissioner Yarish said he thought the biggest impact in the neighborhood was with the visual impact of the area having a "parking lot look" and now this revised parking plan with landscaping has solved that problem.

Commissioner Julin said that the consensus of the Commissioners at the previous meeting was they did not like the idea of putting additional private vehicles on the street.

Commissioner Julin started to make a motion of denial but Commissioner Kanis wondered if the applicant would consider a continuance to answer the question of availability of off site parking for the employees of 18 San Rafael.

Mr. Hastings thought it was beyond reason and a fantasy to think that off site parking was available. He was willing to offer an alternative parking plan of three cars in front and three in the rear or three cars in the rear. He said that a continuance or denial would just be devastating to his business.

Chairman Sias said it is unfortunate but the consensus of the Commission is that the use does not fit in with the neighborhood.

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Mr. Hastings said the issue before the Commission tonight was not the use, but the variances for parking.

M/Julin, to deny V-2282 - James R. and Donna M. Hastings, 18 San Rafael Avenue, A/P 7-162-15, a 6 foot west sideyard variance and 2 foot rearyard variances to provide on-site parking for a professional use within 2 feet of the west side property line and within 18 feet of the rear property line; a parking variance for the required number and size of parking spaces on the basis that their approval would result in over intensification of use of the site given the residential character of the neighborhood and limitations of available parking in the area.

Chairman Sias thought that item number three in the findings should be specifically addressed. He is not able to make that finding for the reasons that have been stated. Approval of this application would make parking a problem for the neighborhood and did not think that would be fair to the neighborhood.

M/ Julin added that the Commission is unable to make the finding that: The granting of such variance, under the circumstances of this particular case, 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 be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood.

Chairman Sias would like to offer as an amendment in the motion that this particular plan would put parking on a neighborhood street and would add three parking spaces on a neighborhood street and would be detrimental to the properties in the area.

Commissioner Julin said she would second the amendment but there is no second to her first motion.

At this point the motion was read back to the Commission and there was a discussion as to the wording of the motion for denial. Commissioner Julin said the emphasis is over intensification of use of the site or overdevelopment of the site.

M/Julin, to substitute the wording from "over intensification of use" to "overdevelopment of the site as evidenced by the necessity of four variances being requested".

Ms. Wight was not sure the Commission wanted to use the term "overdevelopment" because the Professional Zone can have 60% of lot coverage with a structure. She thought the majority of the Commission was concerned about the number of people on the site and would be more in favor of a one person office.

Chairman Sias agreed with the comments of Ms. Wight. He would support a motion to deny the parking variances on the grounds that the Commission is unable to make the findings that this plan will be not detrimental to the public welfare or injurious to property in the area specifically because it calls for replacing three parking spaces onto a neighborhood street.

Ms. Wight said that any professional use that goes in the site will require six parking spaces and require a parking variance. The question is whether or not the Commission feels the six spaces are needed for the use or not.

Commissioner Julin thought that over intensification of use is the appropriate wording. Ms. Wight agreed with Commissioner Julin.

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Commissioner Julin's motion died for lack of a second.

M/Kanis, to deny the variances based on the comments of Chairman Sias.

This motion died for lack of a second.

Commissioner Julin said that the intensity of use should also be included in the denial as well as the increase of on street parking.

M/S Julin, Kanis, to deny V-2283/C-223 - James R. and Donna M. Hastings, 18 San Rafael Avenue, A/P 7-162-15, a 6 foot west sideyard variance and 2 foot rearyard variances to provide on-site parking for a professional use within 2 feet of the west side property line and within 18 feet of the rear property line; a parking variance for the required number and size of parking spaces; and design review of the parking plan on the basis that: (1) the project as proposed represents over intensification of use of the 5,200 square foot site; (2) the granting of the variances will affect adversely the health and safety of persons residing or working in the neighborhood of the property; (3) it will be materially detrimental to the public welfare as at least 3 cars will be required to park on the public right of way (off-site) if the variances are approved; and (4) it is not necessary for the preservation and enjoyment of substantial property rights of the petitioner on the basis that he still has reasonable use of the property.

Ayes: Kanis, Julin, Sias

Noes: Yarish

The motion carried. The applicant has a ten day appeal period.

3. V-2283 - Virginia S. Kinsella, 3 Hazel Avenue, A/P 7-114-02, a 5 foot west sideyard variance and a 14 foot frontyard variance to construct a carport within 3 feet of the west side property line and within 6 feet of the front property line with a 1 foot roof over hang.

The applicant was not present, therefore the item was moved to the end of the agenda.

4. U-635 -/V-2284 - Angelo and Kathryn Servino, and Tony and Giselle Capra, 729 Sir Francis Drake Boulevard, A/P 6-083-06, use permit for the on-sale of beer and wine and outdoor eating; and a parking variance.

The applicants were present.

Lisa Wight presented the staff report.

Commissioner Kanis questioned the number of parking spaces in the rear of the building, noting it did not look like there were two, 9x19 spaces in tandem. He also asked if there was outdoor lighting in the parking lot. Ms. Wight said the parking measurements were provided by the applicants.

Commissioner Julin asked if staff considered the parking of the sushi Restaurant on the same block when doing the research for Servinos. Ms. Wight said Servinos was done independently.

Kathryn Servino said the first parking variance was granted in 1976 and when she purchased the building she only needed a use permit for beer and wine. It is her understanding that they now are required to get a parking variance because there has been over six months lapse of time since the

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building has been used. They tried to get their building back within that period of time but the person they were selling the building to went into bankruptcy and the paperwork took longer than six months to be resolved. She added that there has never been a problem with parking in the past and the parking situation has not really changed from the ten years they have owned the restaurant. With regards to valet parking, they have talked to several neighbors who would be willing to let them use their space but all are reluctant to sign a legal agreement.

Giselle Capra said their business will be in the evening and there is adequate on street parking at that time because many of the businesses in the area are closed.

Angelo Servino said they able to park three cars in the rear of the restaurant and that they do have lighting in the parking lot. He noted that this restaurant will be good for the neighborhood because the area now looks dark and abandoned.

Commissioner Julin asked staff if there have been any problems in the past regarding parking. Ms. Wight said to her knowledge there had not been although she has not checked with the Police Department.

Jerry Reesom, a relative of the Servinos, said it should be made clear that valet parking is not available at this time but there is adequate on street parking and this use is a night use when many other businesses in the area are day uses.

Commissioner Kanis could support because of the night time use and did not think it reasonable to consider valet parking a condition.

Commissioner Julin supported the use and parking variance but was curious to the relationship between the parking of Servinos and the Red Sun Restaurant.

Commissioner Yarish supported the application

Chairman Sias supported the application but would like to see there be a six month review on the parking.

Commissioner Yarish said there is a tremendous investment to get the restaurant started and if parking was a problem in six months it could force the close of the restaurant.

Chairman Sias said if a problem exists the Commission would be looking for solutions to the parking problem.

M/S Yarish, Julin, to approve U-635/V-2284 - Angelo and Kathryn Servino and Tony and Giselle Capra, 729 Sir Francis Drake Boulevard, A/P 6-083-06, use permit for the on-sale of beer and wine and outdoor eating; and a parking variance for the following reasons:

Use permit:

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 such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the Town; and 2. The granting of the use permit is necessary for the preservation and enjoyment of substantial property rights of the petitioner.

Variance:

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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 such 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 specifically that other restaurants and stores in the area have parking variance and this is an appropriate night time use and works well with parking in the area. 2. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner specifically that the restaurant use has a long standing history; and 3. The granting of such variance, under the circumstances of the particular case, will not materially affect adversely the height or safety of persons residing or working 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. This approval is conditioned on the fact that there be a six month review of the parking for the possible need to provide an alternate plan to cope with excessive parking requirements. This is further conditioned that the hours of operation of the restaurant be limited to opening at 5:00 p.m.

Motion unanimously passed. Audience advised of the ten day appeal period.

Jerry Reeson agreed with the comments of Commissioner Yarish, adding that it is difficult for a sale to take place with a cloud hanging over them.

Chairman Sias said it is not unusual to have a six month review of an application, noting that if a parking problem does exist, it will allow the Commission and the applicant alternative ways to solve the problem. It should not be viewed as a detriment.

5. V-2285 - Barry Ulrich and Karin Mitchell Ulrich, 247 Sequoia Drive, A/P 6-117-02, an 18 foot frontyard variance and a 5.5 foot west sideyard variance for a storage shed to be within 2 feet of the front property line and within 1.5 feet of the west side property line; and a 2 foot frontyard variance to construct an addition within 18 feet of the front property line, with a 1 foot roof overhang.

The applicant was present

Lisa Wight presented the staff report.

Barry Ulrich said his neighbors at 241 Sequoia were in support of his application and was unaware he was required to apply for a variance for the shed because there was no building permit required.

Steve Dana, 49 Grove Hill, said he and his mother were opposed to the variance because the property is very unsightly now and presented photographs to the Commission.

Joan Dana, 49 Grove Hill, said she has been patiently waiting for all the building to be completed but the premises are very unsightly. She said if the applicant was to remove the shed it would only create less storage.

Commissioner Yarish did not have a problem with the variances but wished the neighbors could be appeased.

Commissioner Kanis had nothing to add.

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Commissioner Julin said the issue of an unsightly yard is not part of the variance request. She approved of the variances.

Commissioner Sias said he approved of the dining room addition but had problems with the shed because he was not convinced it had to be there. But he would approve it if there could be landscaping to screen the shed from the street, perhaps a non obtrusive vine planted against lattice.

M/S Yarish, Kanis, to approve V-2285 - Barry Ulrich and Karin Mitchell Ulrich, 247 Sequoia Drive, A/P 6-117 - 02 - an 18 foot frontyard variance and a 5.5 foot west sideyard variance for a storage shed to be within 2 feet of the front property line and within 1.5 feet of the west side property line; and a 2 foot frontyard variance to construct an addition within 18 feet of the front property line, with a 1 foot roof overhang on the basis: 1. Due to special circumstances applicable to the property, specifically that the area of the dining room encroaches in the set back and is insignificant in the impact of neighbors and not inconsistent with other houses in the area and will cause very little detriment. 2. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner; and 3. The granting of such 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 applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood in that the addition is consistent with other houses in the area. This is conditioned upon the establishment of some landscaping to provide a visual screen for the storage shed from the north and west with vines and lattice against the building from floor to ceiling. This is based on the drawings dated 3-23-89.

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

3. V-2283 - Virginia S. Kinsella, 3 Hazel Avenue, a/P 7-114-02, a 5 foot west sideyard variance and a 14 foot frontyard variance to construct a carport within 3 feet of the west side property line and within 6 feet of the front property line, with a 1 foot roof overhang.

The applicant was not present and there were questions from the Commission regarding this variance.

M/S Kanis, Julin to continue V-2283 - Virginia S. Kinsella, 3 Hazel Avenue to the meeting of June 5, 1989.

All ayes.

D. BUSINESS ITEMS

1. Steven Harnsberger, 49 Cedar Street, A/P 7-222-44, appeal of Planning staff's decision to require the retention of a consultant for the processing of the development application.

Commissioner Kanis asked as to the approximate number of hours it would take to process this application. Ms. Wight said it would take at least three times longer than a normal application.

Chairman Sias asked if this is precedent setting or does the Town routinely require outside consultants for large applications. Ms. Wight said the Town routinely hires outside consultants for large application that involve

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subdivision of lots, rezoning of parcels or applications that involve three or more units.

M/S Yarish, Kanis, to direct the Town to require the retention of a consultant for the processing of the development application for A/P 7-222-44 - Steven Harnsberger, 49 Cedar Street because it is in accordance with existing Town policy and is not precedent setting, to require outside consultants for complex applications that involve subdivision of lots and rezoning of parcels.

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

2. V-2278 - Steve G. Zamlich, 121 Humboldt Avenue, A/P 7-033-03, clarification of transparent stain color for dwelling.

The consensus of the Commission was to keep the color as dark as possible and preferred "920 - Aspen tan.

M/S Kanis, Yarish, recommend that Olympic semi tan 920 Aspen or a darker brown be used as the color for the dwelling at 121 Humboldt and it excludes 908, 911 and 916.

All ayes. Motion unanimously passed.

#. Z-246 - Terry and Eugene Schenk, and Kintetsu enterprises of America, off Cherne Lane, A/P Nos. 5-300-15, 5-300-24, and 5-300-28, approval of resolution to form their April 17, 1989 findings and recommendation for denial.

M/S Julin, Yarish, to approve Resolution 88-11 of the San Anselmo Planning Commission recommending denial of an amendment to Ordinance Number 890, Table of Hillside and Ridge Density Parcels, which would have created a new building site on Cherne Lane by combining portions of land owned by the Kintetsu Company (A/P 5-300-15, with portions of Land owned by Terry Schenk A/P 5-300-28.)

All ayes. Motion unanimously passed.

E. APPROVAL OF MINUTES: May 1, 1989. Continued to the meeting of June 5, 1989.

F. OTHER BUSINESS

Chairman Sais announced that the Council approved the hiring of an Assistant Director of Planning and said it is his understanding that the Commission will have input in the interview process along with the Council. Commissioner Julin has confidence in Mr. Kottage and therefore he should be the person making the decision about hiring the applicant and that the Commission and Council need not get involved.

Commissioner's Julin and Yarish were interested in having the parking mitigation fund put on as an agenda item for recommendation to the Town Council.

F. ADJOURNMENT

The regular meeting of the Planning Commission was adjourned at 11:50 p.m. to the next meeting of June 5, 1989.

BARBARA CHAMBERS
ADMINISTRATIVE SECRETARY/TECHNICIAN