

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES FOR JANUARY 19, 1993**

The special meeting of the Planning Commission was called to order at 8:00 p.m. by Chairman Mihaly. Staff present was Planning Director Ann Chaney, Planning Consultant Delvin Washington and Planner Lisa Wight.

A. CALL TO ORDER

Commissioners present: Harle, Julin, Kroot, Israel, Mihaly, with Hayes arriving at 8:10 p.m.
Commissioners absent: Sias

B. CONSENT

1. **Minutes - January 4, 1993**

M/S Julin/Kroot, to approve Consent.

Ayes: Harle, Israel, Julin, Kroot, Mihaly
Motion unanimously passed.

C. PUBLIC HEARINGS - WITHDRAWN

1. **V-9242 - Robert Schulz, 130 Madrone**, A/P 7-114-16, a 10' front yard and 3'6" side yard variance to enclose a portion of an open porch which will then be 10' from the front and 4'6" from the side property line, on property located within the R-1 Zoning District.

D. PUBLIC HEARINGS - CONTINUED

1. **V-9244 - Lenore Mathews, 72 Foothill**, A/P 7-033-12, a 17' front yard variance and an 8' side yard variance for an addition and a 2 car garage, within 3' of the front property line and 0' of the side property, on property located within the R-1 Zoning District. **CONTINUED TO THE MEETING OF FEBRUARY 1, 1993**

2. **PS-9201 - Tony Richards for Viking Leon, Between Forest Avenue and Vista Lane**, south of Landsdale Station Park, A/P Nos. 7-021-07, 7-021-23, and 7-021-24, 1) environmental review; 2) parcel split to legalize the 1954 creation of three separate building sites, each of which is currently undeveloped. **CONTINUED TO THE MEETING OF FEBRUARY 1, 1993**

3. **V-9240/DR-9218 - Tony Richards for Viking Leon, 5 Vista Lane**, A/P 7-021-24, 1) design review of a single family dwelling; 2) a 17' frontyard variance to construct a dwelling within 3' of the front property line; 3) a 3' rearyard variance to construct bay windows within 17' of the rear property line; 4) a 20' frontyard variance for driveway retaining walls to be within 0' of the front property line; and 5) a 13' frontyard variance to construct an uncovered deck within 1' of the front property line. **CONTINUED TO THE MEETING OF FEBRUARY 1, 1993**

4. **V-9241 - Bernie Arreaga, 31 Carlson Court**, A/P 5-062-35, a 15'7" variance to construct a 6' retaining wall within 4'3" of the front property line, on property located within the R-1 Zoning District. **CONTINUED TO THE MEETING OF FEBRUARY 1, 1993**

5. **V-9243 - Harry J. LeVine, 405 Scenic Avenue**, A/P 7-032-02, 1) a parking variance for the property to remain without on-site parking; 2) a 5' rear yard variance to reconstruct an uncovered deck within 9' of the rear property line; and 3) a 8'4" front yard variance to reconstruct an uncovered deck within 5'8" of the front property line, on property located within the R-1 Zoning District. **CONTINUED TO THE MEETING OF FEBRUARY 16, 1993**

6. **DR-9301 - James Cressa, 566 Scenic Avenue**, A/P 7-061-23, a design review request to construct a 475 square foot second story addition and a 250 square foot deck to an existing 1,200 square foot residence. Project also includes a 20' long retaining wall, on property located within the R-1 Zoning District (above 150' mean sea level elevation). **CONTINUED TO THE MEETING OF FEBRUARY 16, 1993.**

E. PUBLIC HEARINGS

1. **U-9301 - Bill Johnson, 100 Chipman Place**, A/P 7-271-21, a request to re-establish a second unit on property that was recently approved for a single family residence. The second unit will be located in an existing accessory structure. This property is located within the R-1C Zoning District.

The applicant was present.

Mr. Washington presented the staff report which included a diagram that indicated where the

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Ross Valley Fire Department felt parking should be for the second unit. He stated that along with the conditions of approval listed in the staff report he wanted to add two additional conditions that state the location of parking for the second unit and the requirements for MMWD hook up prior to occupancy of the primary dwelling.

Mr. Johnson gave a brief history of the second unit and stated that he wanted to re-establish his second unit. He indicated that the unit stands approximately 40 feet from the side property line and the nearest neighbor at 155 Oak's property is 40 feet from his property line. Therefore, there is a distance of 80 feet between the properties. He stated however that he had no objection to adding additional landscape to screen as proposed by staff. He stated that the intent of the second unit is to allow for affordable housing.

Cathy Shatter, 155 Oak Avenue, stated that in subsequent meetings the discussion centered around the legality of the second unit. Now that that issue has been resolved she felt that it should not be conceived as a right that been taken away. She stated that in the past eight years she has had problems with the tenants of the unit and has contacted the Police Department on occasion. She stated that there was no demarcation of the property lines between her property and the applicant's and that has also caused problems. She did not feel that additional landscaping would solve the issues of noise. She had concerns about fire safety and the additional traffic that this second unit would bring.

Bill Hendrickson, 90 Chipman Place, questioned the right of the second unit. He indicated that the property owner was well aware that the second unit had been abandoned and was not in compliance with the second unit ordinance when he purchased the property. He stated that Mr. Johnson is a licensed real estate broker and is well aware of the laws and codes as well as full disclosure of properties. It was clear in Mr. Hendrickson's mind that Mr. Johnson purchased the property with full knowledge that the second unit was not valid. With regard to parking, he stated that the deed for 100 Chipman indicates that parking was only permitted within twenty feet of the north easterly portion (in the area of the proposed garage). He therefore felt that this should be further investigated. In summary, he was opposed to the second unit on this property and felt the unit should be used only as a guest house.

Ted Posthuma, 379 Oak Avenue, stated that in 1985 he applied for a second unit and was told that one unit existed. He was then informed that the last unit had been granted prior to his application. He asked at that time to be put on a waiting list for the next available second unit. He stated that he just received a letter from the Planning Director that indicated Mr. Johnson's intent to apply for a use permit. He stated that he felt that he was in line prior to Mr. Johnson for the second unit.

Ms. Chaney stated that she has heard about the second unit waiting list but was not aware of it at the time Mr. Johnson applied for the use permit to legalize the legal non-conforming unit. She did write Mr. Posthuma a letter but in her evaluation she felt that because a unit already existed on the property at 100 Chipman, and that the second unit waiting list has been lost, she made the determination that the proposal for 100 Chipman should proceed.

Peter Burke, 155 Oak Avenue, would agree to the unit as a guest house but was opposed to it as a second unit.

Commissioner Hayes agreed that the Commission should view this application as though the unit has never existed. He stated that the question regarding the requirements of parking on the deed needed to be resolved although parking will be better than it was in the past because of the additional on site parking for the new dwelling. He was sympathetic to the neighbor's concerns about the close proximity to the proposed second unit however the Town Zoning ordinance allows additions up to eight feet of the property line and this is well in excess of that allowance. He stated that the second unit has been there for a long time and was leaning towards support but needed clarification on parking.

Commissioner Israel was not sure if this was a valid application or whether the Commission had to examine the second unit waiting list. He needed further clarification on the deed restrictions relating to parking. He felt that the distance between the location of the unit and the neighboring property at 155 Oak was substantial and therefore not grounds for denial.

Commissioner Harle felt the unit as proposed satisfied the objectives of the second unit ordinance however parking should be legal and therefore he wanted clarification on the parking issue. He went on to say that this application should be rendered moot if there is a waiting list and there are other applicants ahead of this applicant. He felt that Mr. Posthuma should provide evidence to staff that indicates he was on a waiting list.

Commissioner Kroot wanted clarification on the waiting list but remembered that during Mr. Posthuma's recent approval for his addition there was a condition that stated he project should be developed in such a manner that no second unit will ever be granted. He stated that the second unit ordinance provides a tool to allow for low to moderate housing in San Anselmo and

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agrees with his colleagues about the adequate distance between the unit and that of the neighbors.

Commissioner Julin would support the second unit on this property however it should be stated that there was a broader community issue regarding low income housing. She felt that the applicant is providing more on-site parking than currently exists and that the distance between the unit and the neighbors was more than adequate. She stated she stood behind the Planning Director's decision to proceed with this application but will defer to her fellow colleagues to see if a waiting list could be found.

Chairman Mihaly felt a continuance was in order. He stated that he did not make light of the neighbors concerns however the law mandates communities to provide low to moderate housing. He wanted to see clarification on the parking issue relative to the wording on the deed for this property; wanted to see if staff could locate the second unit waiting list or perhaps allow people to come forward who have evidence of being placed on a waiting list; wanted to explore the possibility of using trellises/fences and lighting to restrict the view shed.

M/S Kroot/Israel, to continue U-9301 - Bill Johnson, 100 Chipman Place, A/P 7-271-21, a request to re-establish a second unit on property that was recently approved for a single family residence. The second unit will be located in an existing accessory structure. This property is located within the R-1C Zoning District. This is continued to the meeting of February 16, 1993 to allow staff to attempt to locate the second unit waiting list and to examine the wording on the deed that may restrict parking.

Chairman Mihaly stated that because of the lengthy items on the agenda, he wondered how the Commissioners felt about continuing Item D4. to the meeting of February 1, 1993.

M/S Julin, Hayes, to continue D4. Zoning Ordinance Clarification - Request for clarification regarding the design review requirement for additions or new construction greater than 500 square feet, when it involves replacement of existing structures. This item to be continued to the meeting of February 1, 1993.

Commissioner Kroot stated that he will not be present for the meeting of February 1 or March 1 and would very much like to provide input on this item.

Mr. Heinke stated that he wanted to be present and would be available on March 16th.

Chairman Mihaly stated that the continuance could stand for February 1, 1993, with the understanding to staff that the date could change to allow a future date that would be satisfactory to both Mr. Heinke and Commissioner Kroot.

All ayes. Motion unanimously passed.

2. PDP-9203 - Ben O'Hare, Redwood Road (near 269 Redwood Road), A/P 7-141-04, 7-097-05 and 7-097-02, Preliminary Development Plan for the creation of two parcels from three existing parcels and the ultimate development of two homes and the extension of a private driveway. The 2.6 acre site is located along Redwood Road near 269 Redwood Road. The property is located within the R-1H Zoning District.

The applicant was present.

Ms. Chaney presented the staff report and photographs of the site.

There was a 10 minute break.

Chairman Mihaly stated that during the break Commissioner Julin was feeling ill and therefore would not be present for the rest of the meeting.

David Bell, 10 Fernwood, was concerned that although Mr. O'Hare stated that only a few trees are to be removed, he has learned from experience that construction equipment can destroy additional trees. He was glad to see the width of the road reduced to 15' and would like the owner to work with the land during development of the houses. He felt that although the current proposal is for two homes, he thinks that realistically there will be three homes in the area.

Peter Beckum, 286 Redwood, still had questions about drainage.

David Lakes, 249 Redwood, felt that traffic was an issue on an already overly congested road and that there were still unresolved drainage questions. He felt that the cumulative affect should be evaluated on all the building potential in the area. He felt there should be a master plan prepared.

Malcolm Johnson, 180 Redwood, stated that there are current traffic problems on Redwood

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Road and that the condition of the road gets worse every time construction takes place on Redwood. He wondered what recourse the neighbors had since this was not a town maintained road.

Camilly Wilson, 419 Redwood Road, did not think that the removal of one tree for house number 2 was realistic. He stated that Redwood Road is currently very dangerous and wanted staff to investigate the number of accidents that had taken place.

Cathy Sanders, 310 Redwood Road, wanted to make sure that trees did not have to be removed due to the installation of the sewer line. With regard to Item #8 in the Resolution, she stated wording should be changed to include private roads as well as public roads. She stated that General Plan 7.2 limits development of minor ridges and that this project was in conflict with General Plan 3.3. She felt that the size of the house could be reduced. She urged the Commission to reconsider a more updated traffic study to include the cumulative impact of all development.

Gay Kagy, 280 Redwood Road, explained the flow pattern of the water course down Redwood Road. She would like to see drainage pipes used rather than dispersal pipes. She noted that the current proposal does not include a grading plan and she would like to see that because she was concerned about the driveway. She stated that there is a discrepancy on the traffic report because it did not include the 12 Fraser homes. She felt the service levels were not accurate. Therefore she felt "yes" should be checked off on the Environmental check list. Her calculations indicate that can be a potential build out of 43 homes in the area. Ms. Kagy measured the roadway width and noted that upper Redwood measured 12 1/2' and lower Redwood 16 1/2' while Fernwood Road measured 14'.

Mr. O'Hare stated that he understands the concerns of the neighbors regarding additional removal of trees but he stated that he can only rely on the survey prepared by his engineer that states only four trees are to be removed. He stated that he also has to rely on the Town Engineer and his engineers regarding the drainage issues.

Commissioner Israel was very concerned about the future growth in the area and the cumulative impact. He also wondered if an assessment district should be established to take care of the roadway. He would like to see the driveway further reduced if possible. He felt he would need further clarification on dispersal pits.

Commissioner Harle supported the comments in the staff report. He felt that most issues have been addressed as well as they could be at this point. He stated that the cumulative impact question has come up several times before and he was not sure if development could be restricted until such time that Redwood Road is improved.

Commissioner Kroot recalled that there was discussion about improvements to Redwood Road during the Peter Fraser application. He stated that it might be beneficial to form an assessment district. He was glad to see that the Fire Department authorized reduction of the driveway. He felt that the only unanswered questions now pertained to drainage and he felt that should be left up to the Engineer to define with additional discussion at the precise development stage.

Commissioner Hayes was happy to see that the driveway was reduced but thought there should be further discussion regarding driveway width versus roadway width. He agrees that the cumulative impact is a great issue although he was not sure what the answer is to the individual property owners. He said that house number 1 was still an issue with him. He stated that he Condition 7A in the resolution should state that the hours of operation should be only during the weekdays. With Regard to Condition 8, he would like the wording to reflect both private and public roads.

Chairman Mihaly stated that he felt there were still some confusion about drainage which should be addressed during the precise development stage. He did not think that adequate environmental information has been obtained. He felt strongly that the Town should take measures to closely review the cumulative impact of all the potential development in this area and that CEQA will provide the guidelines for this. He felt that this project should really be viewed as three houses, not two. He did not want it assumed that by approving this preliminary development plan was approved, there is was a guarantee that the driveway has been approved in final. He felt that the initial study should be expanded for the precise development plan.

Commissioner Hayes stated that the fire safety issues raised at the Bald Hill meeting stated that the roads were in bad shape and very narrow. He was very concerned about future density and hoped that he would be given guidance from the Town Council prior to the precise development stage.

M/S Kroot/Israel, to approve **PDP-9203 - Ben O'Hare, Redwood Road** (near 269 Redwood Road), A/P 7-141-04, 7-097-05 and 7-097-02, Negative Declaration and Resolution 9301 for the Preliminary Development Plan for the creation of two parcels from three existing parcels and the

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ultimate development of two homes and the extension of a private driveway. The 2.6 acre site is located along Redwood Road near 269 Redwood Road. The property is located within the R-1H Zoning District. Amendments to Resolution 9301 are that Item 7A is to include the word "week days".

Chairman Mihaly emphasized that the cumulative number of houses to be built on Redwood, and the impact, should be analyzed and this should be addressed now.

Commissioner Hayes suggested asking for potential mitigation measures along Redwood Road or information from staff that updates the previous traffic study on Center that indicates traffic has increased from a level D.

Motion unanimously passed.

M/S Hayes/Mihaly, to amend original motion to include additional conditions that require the applicant to prepare supporting documentation or an analysis of existing data in two areas. 1) Potential mitigation measures for roadway improvements to Redwood Road, and; 2) review of the traffic flow conditions on Center Blvd at the intersection of Redwood Road given the cumulative impact resulting from the potential build-out of all vacant parcels in this area.

Commissioner Harle stated that once the information is obtained the possibility then exists that the project could be denied at the precise development stage.

Chairman Mihaly stated that the Commission might be hard pressed to deny the project however the information could be important for mitigation measures.

Commissioner Hayes agreed with Chairman Mihaly. He felt that the information requested in the amended motion will help the Commission in the future.

Commissioner Kroot did not agree with the amended wording. He felt this should have already been addressed prior to the approval of the preliminary plan. He felt satisfied with the original motion.

Commissioner Israel stated that all the Commissioners seemed satisfied with the previous traffic study in making the findings for this project.

Ayes: Hayes, Israel, Harle, Mihaly

Noes: Kroot

Motion Carried. Amended motion approved.

Audience advised of the ten day appeal period.

3. **V-9301/DR-9302 - Albert and Bessie Jung, 41 Hillcrest Court, A/P 5-092-32,** 1) a variance to exceed the maximum permitted dwelling size; and 2) design review of addition totalling 1,648 square feet, which includes a garage extension, two additional bedrooms, dining room and living room extensions, green house addition, and uncovered decks, on property located within the R-1 Zoning District (above 150' mean sea level elevation).

The applicants and Robert Tanaka, their Architect, were present.

Ms. Wight presented the staff report.

Mr. Tanaka stated that the addition will not have a negative impact on the neighborhood because it can not be viewed by any neighbors. He said that the yard was density populated with trees and that will provide screening for the house. He presented a model of the proposed addition, including what the addition could look like if it was built just to the maximum square footage. He also presented photographs of the site. He stated that they did not consider expanding out because they want to use the existing foundation. With regard to special circumstances, he stated that the family requirements are that they need to expand their living space. They have a growing family and they are also the central point for all the extended family gatherings. He stated that the addition could be reduced approximately 400 square feet if necessary.

Mr. Jung stated that they have lived in their house since 1977 and do not want to move. He stated that he wanted a five car garage because he was looking into the future when his children had cars.

Commissioner Harle stated that he was unable to make the special circumstances for the variance. He did not see how the variance could be approved because of the conflict with the Zoning Ordinance.

Commissioner Kroot stated that Mill Valley has granted variances in this area based on the finding of location and non detriment. However, in this situation it would be hard to make the

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findings of special circumstances. He would like to see the applicant tighten up the family room that is currently proposed as 32'. Also, the dining room is very large. He also suggested that the applicant bring the stairway back.

Commissioner Hayes felt the garage was rather large and egress and ingress looked difficult. He did not however have a problem with the design of the addition but was unable to come up with the special circumstances.

Commissioner Israel was unable to make the findings but felt it was hard to agree with the maximum of 5,000 square feet on this application because it will not be a detriment to anyone. He also stated that he would be uncomfortable with the alternative scheme proposed that would comply.

Chairman Mihaly felt it was hard to approve because wording is very clear in the zoning ordinance that there are no allowances to approve the maximum square footage allowance.

Ms. Chaney stated that the case of 165 Crescent tested the maximum square footage allowed and the Town Council was able to make the findings based on surroundings and location of the house and tree cover.

Mr. Tanaka inquired if the Commission was receptive to granting approval if the addition was decreased to 3,200 square feet and the garage was kept as proposed.

The consensus of the Commission was that it would still be difficult to make the special circumstance findings but encouraged the applicant to take this to the Town Council on an appeal because they did not think there was any adverse impact.

The Planning Commission passed a minute motion to convey the following to the Town Council: That there is no room for discretion on the maximum square footage allowed and the ordinance should re-examined.

M/S Mihaly/Israel, to deny V-9301- Albert and Bessie Jung, 41 Hillcrest Court, A/P 5-092-32, 1) a variance to exceed the maximum permitted dwelling size;

Ayes: Hayes, Harle, Israel, Mihaly
Noes: Kroot

Motion carried. Audience advised of the ten day appeal period.

M/S Mihaly, Israel to deny DR-9302 Albert and Bessie Jung, 41 Hillcrest Court, A/P 5-092-32, design review of addition totalling 1,648 square feet, which includes a garage extension, two additional bedrooms, dining room and living room extensions, green house addition, and uncovered decks, on property located within the R-1 Zoning District (above 150' mean sea level elevation).

Ayes: Hayes, Israel, Mihaly
Noes: Kroot, Harle

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

F. GENERAL DISCUSSION

Director Chaney noted that she will reschedule the Bald Hill meeting in the near future.

G. OPEN TIME FOR PUBLIC DISCUSSION

There was none.

H. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

There was no discussion on this item.

I. ADJOURNMENT TO THE MEETING OF FEBRUARY 1, 1993

The Planning Commission meeting was adjourned at 12:45 a.m.

BARBARA CHAMBERS