

**TOWN OF SAN ANSELMO**  
**Planning Commission Minutes of December 16, 1996**

The regular meeting of the San Anselmo Planning Commission was convened at 7:30 p.m. in the Council Chambers by Chair Israel. Staff present was Planning Director Ann Chaney, Senior Planner Lisa Wight, and Associated Planner Chip Griffin.

**A. CALL TO ORDER**

Commissioner's present: Harle, Wittenkeller, Cronk, Mihaly, Duys, Sargent, and Israel

**B. OPEN TIME FOR PUBLIC DISCUSSION**

**C. CONSENT AGENDA**

1. MINUTES: December 2, 1996
2. V-9646 - Thomas W. Crowell and Patricia Pirrone, 68 Bennitt Avenue, A/P 5-091-07, an east side yard variance to construct a closet over a portion of an existing deck within 5' of the east side property line (8' required), on property located within the R-1 Zoning District.
3. V-9648 Jason Tavenner, 28 Laurel Avenue, A/P 7-111-10, a variance to extend existing kitchen into rear yard 13' from the rear property line (20' required). The addition will add 115 square feet of space to the 1,582 square foot house, on property located within the R-1 Zoning District.

M/s Wittenkeller/Harle, and passed, to approve the Consent Agenda.

Ayes: Duys, Harle, Sargent, Cronk, Wittenkeller, Israel  
Abstain: Mihaly

The audience was advised of the ten day appeal period.

**D. CONTINUED ITEMS**

1. Environmental Review/GPA-9601/Z-9601/U-9608 Russ Johnson, 12 Loma Robles and 750 Sir Francis Drake Boulevard, A/P 6-091-41, 770 and 760 Sir Francis Drake Boulevard, A/P 6-091-38, 754 Sir Francis Drake Boulevard, A/P 6-091-39, and 700 Sir Francis Drake Boulevard, A/P 6-091-40: environmental review; General Plan amendment to amend the land use designation from Limited Commercial to General Commercial; Zoning Ordinance amendment to amend the zoning from C-L (Limited Commercial) to C-3 (General Commercial) or to revise the list of allowed uses (Table 3A) in the C-L zone to permit a mini-mart food store. This request is being initiated by the Chevron Service Station owner in order to permit a mini-mart at that service station. CONTINUED TO 1/6/97.
2. Town of San Anselmo - Ordinance Amendment - Approve ordinance language modifying the review process and standards regarding the current 8' side yard. Proposed language could allow additions to existing structures in residential zoning districts which do not meet current set back requirements through the Design Review process instead of the Variance process for new development within the 5' to 8' side yard set back area. CONTINUED TO 1/6/97.
3. V-9644 - Kevin McGee, 5 Jordan Avenue, A/P 6-166-04, Variance to reduce the parking space length within a garage from 19' (required) to 16'6" to accommodate a new interior addition, on property located within the R-1 Zoning District. CONTINUED TO JANUARY 21, 1996.

**E. PUBLIC HEARINGS**

1. Z-9602 - Environmental Review and Proposed Amendment to the Second Unit Ordinance. This amendment would waive the current on-site residency requirement of property owners of use permit-approved second units located on property with Sir Francis Drake Boulevard frontage in the R-1 (Single Family Residential) zoning District. Application initiated by Shelagh Kew Barker at 1108 Sir Francis Drake Boulevard.

Ms. Wight presented the Staff Report and Staff responded to the Commission's comments as follows:

- The applicant purchased the property knowing the conditions of the Second Unit Ordinance.
- Mayor Kroot voted no because he was concerned about the maintenance of the property with an absentee landlord.
- The only way to control maintenance on the property would be through nuisance abatement.
- There was no clear statement that Sir Francis Drake Boulevard should change or any comments regarding the higher density on a lot that does not even meet the R-1 Zoning requirements of 7,500 square feet; however, there was an analysis provided for both the Council and the Commission that was done on specific lot sizes on Sir Francis Drake Boulevard. The Council was not willing to set the precedent to rezone this parcel to R-2 but wanted to look at the idea of deleting the "Owner Occupancy" requirement along Sir Francis Drake Boulevard or increasing allowable rents for second units.
- The second unit rent control is monitored by an annual rent guarantee..
- The difference between an R-1 and R-2 use is that R-2 uses require 4 on-site parking spaces and only three spaces are required for R-1 property with a use permit-approved second unit.

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Shelagh Barker, 1108 Sir Francis Drake Boulevard, stated that many of her points have been overlooked and not acknowledged. She now simply wants to lift the owner/occupancy requirement. Sir Francis Drake Boulevard has been designated as an arterial highway, Broadmoor and Butterfield have not. Sir Francis Drake Boulevard should not have the same zone as other properties in San Anselmo; her lot is just about 500 square feet short of the R-2 zoning. There was ruling by the Supreme Court of Calif. That states a jurisdiction cannot make a decision on what neighbors may or may not do. Ms. Barker felt she should be given consideration for the street that she lives on. The only people who have shown interest in her property are investors and she cannot sell the property with the owner/occupancy condition. She noted that at least 3 of the seven houses on the block are currently rentals, although they do not have second units.

Chair Israel asked about Staff's recommendation to adopt the four car parking. Ms. Barker responded that if she was not allowed the R-2 Zoning, why would she be required to comply with the 4-car parking. However, she has been able to park four cars on the property.

Ben Berto, 324 Butterfield Road, stated that he is a registered second unit owner and the benefit of owner/occupancy is that the owner will put in more effort to cultivate better neighborhood relations.

Ms. Chaney stated that as part of the Housing Element, Staff will be providing potential revisions to the rent control; it is out of sync with the moderate income of the County.

Ms. Barker commented that she did not feel that the CPI was a fair indicator of what the rental indicators are.

Commissioner Mihaly noted that the Staff Report very accurately discusses the policy issues. There are about 50 lots on Sir Francis Drake Boulevard and only about 6 will be affected. He really felt that Sir Francis Drake is different than any other street and all the densification issues don't work on Drake. It would be good for people of more moderate means to rent in the neighborhood; it is a modest way of increasing the intensification and allowing low/moderate income housing in San Anselmo. The negatives listed by Staff are completely accurate but if only 6 units will be affected, he would be able to tolerate it and it does create the potential for more rental units. The three car parking is a compromise.

Commissioner Wittenkeller felt the Staff Report was completely accurate. There is a reason for owner/occupancy and he does not want to see it tampered with. Nor does not want to see Sir Francis Drake loaded up with low income rentals. The Second Unit Ordinance is working and he is opposed to creating a higher density on Drake. He would rather see other mitigation measures to buffer the noise such as fencing, landscaping, etc.

Commissioner Harle opposed lifting the restriction of owner/occupancy. Historically, it was an essential part of the Second Unit Ordinance to have owner/occupancy and he would certainly oppose lifting the rent control because it was a way of obtaining moderate housing. He is persuaded in part that there is something special about Sir Francis Drake but the Second Unit Ordinance should not be tampered with. This is an economic argument and was opposed to granting approval for economic gain.

Commissioner Cronk was sympathetic with the change on Sir Francis Drake and how the owner is affected but is also concerned about the potential change if the owner/occupancy is uplifted.

Commissioner Duys concurred with Commissioner Harle's assessment, noting that this should be looked at in the bigger picture of the Sir Francis Drake Corridor. It is not appropriate to make the change in the Second Unit Ordinance.

Commissioner Sargent stated that there is a burden placed on the owner because of the environmental factors however it is a defacto zoning change. If there is an issue, it should be looked at differently. This proposed change would clearly be setting precedent. He suggested that perhaps Section 10.6.305 be restructured because of hardship but would not want this transferred with the sale of the property.

Chair Israel said he was in support of the owner/occupancy for second units but Sir Francis Drake Boulevard is almost all rental now. The applicant's lot is smaller than the required R-1 lot. The number of units affected do not represent a significant traffic hazard but the only way he could support this would be with 4 car parking. He is not sure he would have been able to grant approval of the second unit if it came before him under the current Ordinance because it is less than the minimum lot size. He could support continuance to obtain more information on lots with less than the minimum lot size; or 4-car parking requirements; or mitigation measure that support the notion of upgrading the property with things like drip irrigation.

M/s Sargent, Wittenkeller, to deny the project based on the Staff Report.

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Commissioner Mihaly would prefer a larger planning process but he did not think that will happen. He was not sure that an R-2 designation was appropriate and that the current proposal by the applicant was a fairly modest approach if limited with having 4 car parking and landscaping requirements.

Commissioner Duys questioned the precedent setting aspect. Commissioner Mihaly was also concerned about it, however the thing that sets Sir Francis Drake aside are traffic as well as the many commercial uses.

Commissioner Sargent commented that the owner/occupancy is a special granting of privilege and has nothing to do with density.

Commissioner Harle stated that each street leading into San Anselmo has been examined and would not like to see the second unit ordinance distorted.

Chair Israel suggested the Commission deny the project without prejudice to enable them to return with an alternative solution to the Planning Commission without having to wait the six month period.

M/s Sargent/Wittenkeller, to withdraw the previous motion of denial based on the Staff Report.

M/s Sargent/Wittenkeller, and passed, to deny the project without prejudice.

Ayes: Wittenkeller, Harle, Cronk, Duys, Sargent, Israel  
Noes: Mihaly

The audience was advised of the ten day appeal period.

2. **Master Plan - San Domenico School, 1500 Butterfield Road:** Presentation of the San Domenico School Master Plan. Proponents of the Plan envision building expansion and an increase in student enrollment from 500 to 680 students. The Plan is not within the Town's jurisdiction and will ultimately require County approval. The purpose of this presentation is to discuss the project, including potential traffic impacts, and receive comments.

Dr. Richard Gray, Assistant Headmaster, San Domenico, provided an overview of the project. He also provided information from a traffic study that was obtained by DKS. They are trying to add additional bus service with Golden Gate Transit. Their goal is to maintain the current traffic volume to the Butterfield Road corridor to San Domenico School. They will guarantee that if they grow, they will provide a bus service shuttle on Miracle Mile to the school, for those San Domenico children that are not currently in a car pool and not taking the Golden Gate Transit. They are looking at low emission fuel vehicles. If the school grows in enrollment, it will not be detrimental to San Anselmo and the Butterfield Road corridor.

Gene Zampatti, 26 Butterfield Road, is concerned about the increased traffic on Butterfield. He would like to know the actual number of vehicles that will be increased.

Linda Hoch, 250 Sequoia Drive, asked about the percentage of increase. Chair Israel responded that the increase would be 36% growth based on the statistics.

Howard Johnson, 36 Butterfield, wondered if there could be a reduction in traffic now, rather than wait until they introduce the master plan. We wondered if the traffic caused by Brookside School should also be evaluated.

John Walters, 110 Santa Cruz, wondered where the increase of 400 homes would be.

Ben Berto, 324 Butterfield, was encouraged to see a master plan. However, the traffic study was done and paid for by the applicant and was merely a snap shot and additional studies need to be considered; what about impacts due to special events? Any traffic increase will severely affect the residents. The idea of busing will take care of some of the traffic but perhaps stop signs on Butterfield also need to be evaluated.

Gary Palsner, 30 Butterfield Road, was also concerned about traffic congestion and future impacts should be carefully evaluated. He clearly sees a big decrease in traffic during the summer. He concurs with the idea of busing, better than the carpooling.

Mr. Gray responded to the concerns as follows:

- They will be introducing vans in late winter and early spring to show the public that of their intent to reduce traffic.
- They received demographic information from ABAG and from a service in New Jersey which indicated 400 new residences will be built in the community.
- Will not increase the special events under the current use permit;
- Would be happy if San Anselmo would reconfigure the island and stop signs from Butterfield to Sir Francis Drake
- There are many car pools of more than three people in the cars.

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Commissioner Wittenkeller stated the school has been a good neighbor and an asset to San Anselmo. It will be important to coordinate with the County on this project. The coordination effort is very important. The size of the gym might suggest large events and traffic is certainly an issue. Any efforts to sow accomplishments of carpooling, in advance of a final plan will work in their favor.

Commissioner Harle appreciates the value of the school to the community. The use of shuttle busses is beneficial to relieve traffic on Butterfield; the mode of collection for the shuttle bus also needs to be addressed.

In response to Commissioner Crook, Mr. Gray stated that his contribution to the potential increase in traffic will be to reduce the number of cars that travel to the school. He also noted that the dismissal time does not occur during peak traffic time.

Commissioner Duys stated that the additional 110 cars trips will be mitigated by the shuttle services.

With regard to the new gymnasium, Mr. Gray stated that the school will be expected to participate and sponsor other teams but they will work with the community and he assured the Commission that there will be no increase to the community. They are committed to it being a girls school and competition is much smaller.

Commissioner Sargent asked if a survey will be done on the parents regarding their transportation use and whether they would consider alternatives. He felt that scheduling was very important and that any extra circular activity could generate additional traffic. He also wondered if they have considered a bus service, similar to Marin County Day School.

Mr. Gray responded that they would be happy to initiate that as a long term mitigation measure. The critical mass of children are in San Anselmo and San Rafael.

Commissioner Mihaly said that schools are not used to being developers and would suggest a project committee with representatives from San Anselmo, the County of Marin, and the Sleepy Hollow Association to do the entire project, including the EIR. The Town must be proactive in this matter. Also, there must be a very detailed traffic study prepared, noting that the important factor is how many trips, not the percentages. He felt the burden should be on San Domenico School and the condition of the Use Permit should include all the perimeters. Some of the questions that need to be answered are: what is the population; what is the cumulative impact on the county; what is a fair way to finance the project on Butterfield regarding traffic, stop signs, etc.

Chair Israel felt that traffic was the real problem and it is important to not underestimate traffic; not just on Butterfield, but also on Sir Francis Drake and the HUB. Golden Gate Transit has no money for route expansions because they have to upgrade all their busses for handicapped. There should be some effort to work jointly with the public schools regarding traffic and it should be looked at as a community effort.

Commissioner Mihaly stated he would like to see a member of the Ross Valley School District sit on the panel that he talked about.

Chair Israel applauded the idea of a shuttle service, at least beyond the HUB, perhaps by San Rafael. He was not concerned about the special events because they occur off-hours.

Mr. Gray stated that only 60 students can live on campus because of the demographics.

Commissioner Mihaly also suggested that a review of the use proposal every year, for the first few years, and then do a compliance generation every two years.

Commissioner Wittenkeller would like the Commissioner to make a recommendation to the Council, and have the Council make a recommendation to the Board of Supervisors regarding the Town's interest and concerns.

Chair Israel suggested that staff compile all the information and present as a recommendation to the Commission.

Connie Berto, resident of Sleepy Hollow, stated the Sleepy Hollow Homeowners Association has not reached a decision yet and the next meeting will be on January 9, 1997, at the Sleepy Hollow Club House.

M/s Wittenkeller/Mihaly, and unanimously passed, to recommend that Staff prepare a proposal that states an Advisory Committee be comprised of a member of the Town of San Anselmo, the Sleepy Hollow Homeowners Association, Brookside School and the County of Marin, and that proposal is to be returned to the Commission for the next meeting on January 6, 1997.

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3. **40 Tomahawk Drive, A/P 177-250-63**, Request by Laurence Bartone 1) to amend or interpret the Quarry Mountain subdivision CC&Rs and Map to permit a driveway access across the private open space easement on 40 Tomahawk Drive. This property is located within the Town in the R-1-H Zoning District. The purpose of the driveway would be to access a single family lot located in the County jurisdiction (A/P 177-171-06) directly from Tomahawk Drive; and 2) grant a private open space easement to the Town of San Anselmo over the undevelopable portion of A/P 177-171-06 located in the County.

Ms. Chaney presented the Staff Report, noting that she has also provided modified language for the Commission to review that was not included in the Staff Report. In addition, she asked if Mr. Bartone would comment on the idea of another location for the driveway access.

Commissioner Duys asked about the shift in the location of the building envelope. Ms. Chaney stated that it may shift when Mr. Bartone meets with the County but there are several trees within the rear portion of the envelope on the site and the stakes delineating the envelope have not been surveyed.

Commissioner Cronk commented that given the large size of the lot, the building envelope is very close to the neighbor on Miwok.

Mr. Bartone stated that his intention is not profit driven. In response to Staff's question about the driveway access at a different location, he did not feel it could be done because the road is too narrow and too steep. Also the street is unsafe at that point because of the curve. He stated that his neighbors, the Rusches, at 40 Tomahawk, do not want to be responsible for the maintenance of the landscape. It is also impractical to move the driveway access because of the oak trees. It is unfortunate that the building envelope gets within 10' of the property lines but the current location has the best soil conditions.

In response to Commissioner Mihaly, Mr. Bartone stated that although the language is a little restrictive, it is fine.

Conn Rusche, 40 Tomahawk Drive, presented a document that he would like incorporated into the Bartone documents, noting that Item 2 has been taken care of.

Commissioner Mihaly suggested leaving the wording of the Private Open Space Easement the way it is and have the two property owners negotiate separately.

Commissioner Cronk suggested an easement within an easement that shows the driveway.

Chairman Israel wondered if the lower space would remain as open space. He was concerned about the landscape.

In response to Commissioner Sargent, Town Attorney Roth stated that Mr. Rusche and Mr. Bartone could work separately on the maintenance of the open space or, it could be incorporated into the Open Space Easement at this time. However, he wondered if there was support from the other Quarry Mountain owners.

Commissioner Mihaly wondered what the Town's interest was in controlling the driveway and in conjunction of #1 of Mr. Rusche's memo. He did not want the process held up for Mr. Bartone by having to incorporate Mr. Rusche's request, however he does not see an adverse impact on the owners of Quarry Mountain.

Jonathan Braun, 479 Scenic Avenue, stated that three members of the Open Space Committee met on the site and observed that the stakes are not in the precise location, and trees that are on the site do not show up on the plan. The trees must remain to soften the impact of the site. The general consensus of the Committee was that this location was a benefit to preserve the woods and the proposed building envelope is better than the original proposal. He hoped that the Town is not setting a very dangerous precedent.

John Walters, Open Space Committee, wanted to thank the owner for preserving the trees; his main concern is the driveway easement between the two large oaks. The canopies almost touch each other and the root structure will be disturbed, especially the uphill one. The present location of the driveway will also eliminate some parking for the hikers. He would therefore like to see the driveway moved during the Precise Development Plan.

Cathy Sanders, Open Space Committee, agreed it was probably the best location for a building site; hoping the intention of the future owner will be the same as the current owners. She also wondered if the Town would be able to comment on design review of the house.

Ms. Chaney stated that the Town will only have commenting authority on the project.

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In response to Commissioner Sargent, Ms. Sanders stated that she felt strongly that the driveway further up the road would be better even though it was steeper because of the concern about the two large oak trees.

Susan Rusche, 40 Tomahawk Drive, stated that the owners on Tomahawk would be opposed to the driveway being farther up the road.

Ms. Bartone added that steeper retaining walls would be required if the driveway was moved farther up the road. He felt the best location should be sorted out with the Town Engineer and an arborist.

Commissioner Mihaly suggested that a compromise would be to show a broader easement area for the driveway; another is the floating easement, showing a dotted line.

Commissioner Wittenkeller noted that arborists are like expert witnesses; the trees will be affected by the driveway and the construction of the house, if not immediately, then in the long range.

Commissioner Mihaly stated that the assumption has been that an approximate location of the driveway was the answer but now there are two trees in the way and the owners of Quarry Mountain want to have the precise location of the driveway.

Town Attorney Roth suggested that the specific language come back because the Town will want to know who the grantee of the easement will be.

Ms. Chaney stated that staff has always wanted a more precise location for the driveway.

Commissioner Duys wondered what will happen if a driveway is approved now, and then find out in the future that the oak trees will be impacted.

Mr. Bartone stated that he felt the site could be accessed without damaging the oak trees and this was the only feasible location for the driveway.

Commissioner Mihaly stated he would be inclined to lose one oak tree in exchange for the open space.

Chair Israel wondered if the owners of Quarry Mountain would support a floating easement.

Mr. Rusche responded that the resistance is for the red zone on the narrow portion of the street.

Mrs. Rusche added that the Quarry Mountain owners would rather lose an oak tree and have a safe driveway.

Commissioner Cronk stated that she was ready to vote on the floating driveway with the conditions.

Commissioner Duys stated that she was originally inclined to support the fixed driveway but is now uncomfortable with that because of the trees and now feels the floating driveway is the best solution. She would also support the removal of one oak tree to achieve a good driveway. In summary, she would prefer a floating easement that can be controlled at a later date.

Commissioner Sargent stated that 240 feet of the south boundary is within the open space easement (floating easement) and he would like to establish a line that is still within the easement.

Commissioner Wittenkeller stated that he has problems with the process and the project without the parcel being annexed. The owner at 53 Miwok will be dramatically jeopardized and is not even being considered. He wanted to explore alternative building sites. Also, the oak trees will be at risk if the driveway goes between them and they may decline over a period of time. The grassy oak hillside has an intrinsic value of its own and to place a house there without removing bay trees is wrong.

Chair Israel was not opposed to setting a precedent because the Town will be gaining additional open space. The area in question has not been adequately maintained and if it is maintained it will be a dramatic benefit to the neighborhood. The neighbors are all being considered, even the owner at 53 Miwok, but there are 12 other owners of Quarry Mountain that will also be affected.

M/s Mihaly/Cronk, and passed, to approve the Staff Report with the following amendments: End of 1st paragraph of findings: "...the private open space will be located adjacent to and in the specific vicinity of other private and public open space in a manner which provides a unique contribution to the Town's open space resources." Also, 240 feet from the south boundary of 40 Tomahawk Drive shall be included within the floating easement. Staff is directed to participate in the County planning process with the purpose of maximizing the privacy of 53 Miwok and

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minimizing the removal of trees on site; staff is to bring the comments to the Planning Commission prior to the County for hearing.

Chair Israel offered an amendment that the property owners of 40 Tomahawk be listed as be grantees of the easement.

The Commission agreed that the Rushes of 40 Tomahawk be grantees but not the rest of the owners of Quarry Mountain.

M/s Mihaly/Cronk, and passed, to amendment motion to change "Town" to "Grantees".

Ayes: Sargent, Dues, Cronk, Harle, Mihaly, Israel  
Noes: Wittenkeller

The project was continued to the meeting of January 6, 1997.

5. V-9644 - Peter Serchia, 50 Park Drive, A/P 6-043-36, a Variance to locate a parking space and construct a 1st floor living room within 5' of the northerly side property line; and construct a garage addition within 5' of the southerly side property line (8' required). Proposal also includes a 2nd story addition which is consistent with required setbacks on property located within the R-1 Zoning District.

M/s Sargent/Duys, and unanimously passed, to continue this item to the meeting of 1/6/97 because of the late hour.

- F. GENERAL DISCUSSION
- G. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL
- H. ADJOURNMENT TO JANUARY 6, 1997.

The regular meeting of the San Anselmo Planning Commission was adjourned at 1:00 a.m. to the next meeting on January 6, 1997.