

**TOWN OF SAN ANSELMO PLANNING COMMISSION  
MINUTES OF FEBRUARY 17, 1998**

The San Anselmo Planning Commission was convened at 7:30 p.m. in the Council Chamber by Chairman Zwick.

**ROLL CALL**

Commissioners Present: Dowd, Harle, Wittenkeller, Zwick, (Cronk arrived for the public hearing)

Commissioners absent: Israel

Staff Present: Planning Director Chaney, Senior Planner Wight, and Associate Planner Griffin

**OPEN TIME FOR PUBLIC EXPRESSION**

**CONSENT AGENDA**

1. MINUTES: February 2, 1998

M/s Wittenkeller/Harle and unanimously passed (4-0), to approve the Consent Agenda.

**PUBLIC HEARING**

1. **DR-9713 – Mr. and Mrs. Edward Heavey, 405 Sequoia Drive, A/P 6-117-08, Design Review of a new single family dwelling; setback variances: a) rear yard and north side yard variances to construct a parking deck for a third parking space within 6' of the rear property line and within 0' of the north side property line; b) rear yard, north side yard, and south side yard variances to construct a dwelling within 15' of the rear property line, within 6' of the north side property line, and within 11' of the south side property line (20' rear required; 12' street side required); and c) a parking variance for a 9.5' length of the third parking space to be over the public right-of-way (entire 19' length on site required) on property located within the R-1 Zoning District (above 150' mean sea level) (Staff person: Wight)**

Ms. Wight presented the staff report.

Mr. Heavey, applicant, stated that all the changes were made based on the comments of the Commission and the public.

Vicki Barth, 543 Sequoia, made the following comments relative to the project:

- The story poles have been erected but they do not indicate a footprint of the house. There is also the fifth story pole that does not look like it belongs there.
- She is concerned about road maintenance during construction and would like a bond to stay in place for three years after construction to be used for future damage that occurs.
- She wanted to see a construction management plan that includes 48-hour advance notice to the neighbors and does not permit the road to be closed for more than 3 hours at a time.
- The original owner did not pay their fair share of \$1,300 to pave the unaccepted road and would like the owner to pay the previous owner's share.

Richard Lucas, 506 Sequoia, is concerned about construction around the oak trees and wants them protected. He also echoed the comments of Vicki Barth regarding road protection.

George Silvestri, attorney representing Gilbert Iwanaga at 409 Sequoia, reiterated what was in his letter to Mr. Heavey, dated February 3, 1998 as follows:

- He would still like the parking next to the road right-of-way but because staff is opposed to it, the applicant does not want to do that. His client would allow a slight variance if the parking deck could be eliminated and the required parking space moved further toward the center of Mr. Heavey's proposed house. This would not only mitigate the impact on his client's property, but it would also create less of a traffic safety problem at a blind curve.
- There is an inconsistency in staff's position because they recognize the setback variances may be appropriate because of the unusual shape and topography but are not willing to recommend a variance, which would mitigate the adverse impact of the first variance upon Mr. Iwanaga's property.
- There has been good faith on both the part of the applicant and his client and now, staff is opposed to parking in the right-of-way and the precedent issue should not be relied upon as the sole reason.

Tom Harrington, 39 Madera Avenue, was also concerned about the accuracy of the story poles and about drainage. The Town required him to do a grate on his property when he did his addition. His drain catches the debris of the two properties above him. He would

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like that to be addressed with the Town Engineer. He also wanted clarification about the number of trees that will be planted.

George Hall, 149 Sequoia, stated the large house is not suitable for the lot. The site cannot support such a structure.

Gil Iwanaga, 409 Sequoia Drive, wanted to thank the applicant for working with him in good faith. His main concern is the third parking space and wondered how it is calculated into the FAR for the site. He also wondered how the public's concerns are communicated back to the applicant.

The hearing was closed to public testimony.

Ms. Wight explained that only structures over 30" in height are calculated in the FAR, therefore, the parking pad is not included in the calculations.

Chair Zwick responded to Mr. Iwanaga, stating that comments regarding the project are communicated to the applicant via the public hearing process.

Mr. Heavey explained that the first two story poles show the highest points, the two shortest ones show the lowest part of the house; the fifth one is the farthest corner that reaches into the trees. Staff approved the location and size of the story poles.

Ms. Wight stated that the Commission could consider a 48-hour notification as a condition of approval although she has not seen a restriction that prohibits the road to be closed no more than 3 hours.

Commissioner Harle asked if it would be possible in the future to post a diagram on one of the story poles to indicate what the poles represent.

Ms. Wight stated that staff does not want the third parking space to encroach into the right-of-way and staff is also concerned about the close proximity to the oak tree, as well as the precedent setting. In response to the drainage concerns, the Director of Public Works requires a peer review process. In addition, in previous applications, the down hill neighbor was able to have their engineer present to discuss the findings with the Town Engineer.

The hearing was closed to public testimony.

Commissioner Wittenkeller stated that he would like it if there were no house on the property, however, it is a legal building site and no one has come forward to preserve it as open space. The changes that have been made have been substantial and in most cases, successful. Therefore, he will support the staff report with staff conditions.

Commissioner Harle stated that he is disappointed that the third parking space cannot be closer to the oaks as requested by Mr. Iwanaga. He is not that worried about precedent setting. However, if the Town Engineer vetoes it, he cannot support it.

Commissioner Dowd echoed the comments of his colleagues. In addition, he would like the applicant to pay the \$ 1,300 road bond that the previous owner did not pay.

Commissioner Cronk stated that because she has not been present for most of the hearings on this application, she would abstain.

Chair Zwick stated that he is conditionally in favor of the project based on the applicant's aggressive nature in working with the neighbors. He wanted the peer review process to be a part of the conditions and would like 48-hour notice for road closure. Where the deed restriction states there shall be planting, he also wants it stated that the trees are allowed to grow. He would also like the third parking space in the location as proposed by Mr. Iwanaga but would also want to preserve the oak trees, so he would leave it up to the Town Engineer. He would also like the applicant to participate in the \$1,300 road improvement.

Mr. Heavey stated that any dealings with the previous owner had nothing to do with him and in fact was not disclosed to him. He has spent well over that amount with all the time and effort he has spent of trying to make a good project. However, he is willing to work with the neighbors in maintaining the roadway.

Commissioner Dowd wondered if the Town Attorney could require the applicant to pay the road improvement. Ms. Wight responded that there has to be a relationship between the conditions and the project and in this case there is not.

M/s Dowd/Wittenkeller and passed (4-1 Cronk to abstain), to approve the staff report based on the findings and conditions as set forth in the staff report with the additional conditions: A 48-hour notification period is required, and the trees proposed should be allowed to grow to their maximum height.

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Chair Zwick advised all parties of interest of the ten-day appeal period.

2. **V-9809ER/DR-9801/U-9801 - Dennis DeCota, 631 Sir Francis Drake Boulevard, A/P 6-101-05, Environmental Review, Use Permit, Design Review and Sign Variance for an automotive service and repair facility, on property located within the C-3 Zoning District. A Sign Variance is needed to install a free-standing sign at the project entrance and a sign on the rear retaining wall. (Staff person: Chaney)**

Ms. Chaney presented the staff report. She stated that they are proposing a change in parking, the ninth space will be against the building, where previously it was to be used for cars that are in a holding pattern. Staff is concerned about that because it brings cars closer to Sir Francis Drake Boulevard. Another option would be to allow a reduction to 8', instead of the required 9' in width for the parking space. Those cars could very well be parked by mechanics. Another alternative would be to reduce the building by 75 square feet or reduce the landscaping along Sir Francis Drake Boulevard. As suggested by Commissioner Israel, she visited the Ferrari dealership and they have roll up doors as well as a sliding door. The sliding door is used more for aesthetics.

Commissioner Wittenkeller is very concerned with parking. The Arco station on 2<sup>nd</sup> Street is similar to this application, not the Pennzoil station. Some people drop their cars off and leave them all day. He would like to see employees park off site.

Commissioner Cronk asked about the handicapped parking. Ms. Chaney stated that even with the proposed change, it will include handicapped parking. Commissioner Cronk wondered if there would be traffic congestion onto Sir Francis Drake Boulevard. Mr. Chaney stated that after talking with the traffic engineer, this site would have less congestion than the previous use. The width of the driveway is sufficient to allow for ingress and egress and it will also include arrows on the pavement and directional signs within the site.

Dan Goltz, architect representing the applicant, made the following comments:

- It is very difficult to pick a color from a small chip and he would prefer using a 3' x 3' sample on the site.
- He has included one handicapped parking space.
- 8' wide parking spaces are really very tight and the better solution is to place the parking space closer to Sir Francis Drake.
- The Town provides merchants and their employees an off-site parking permit and Mr. DeCota would be willing to pay for their permits.
- Cars will have to queue up, and it is unrealistic for staff to require all cars to be parked.
- They cannot cut down the size of the building by 75 square feet.
- The site has adequate parking.
- The ingress and egress has been made especially wide and the traffic engineer has concurred that there is adequate space.
- With regard to the Ferrari doors, he is opposed to having a sliding door hang over the building. This is an auto repair business and the doors that they are proposing will be a dark aluminum bronze.
- He presented photographs of the site as it currently exists and a photomontage of the proposed development.
- They want to relate the landscaping to Creek Park. He investigated stepping stones but because of the ADA requirements, he would not be able to do that.

Commissioner Cronk said that the traffic study indicates there will be 28 vehicles per day. Mr. Goltz said that there will be three bays and nine parking stalls. Mr. DeCota stated that it also includes smog checks as well as lube jobs.

Commissioner Cronk asked if this site would really be used by clientele because of the difficult location. Mr. DeCota stated the site is not suitable for a gas station but his use is different. The flow of the vehicles complement the site.

Commissioner Wittenkeller stated that people will probably leave their car all day. He wondered if the applicant has considered valet parking. He does not want to make light of it because he is very concerned about traffic congestion.

Mr. Goltz stated that it would be up to the applicant to make the decision of valet parking.

In response to Commissioner Cronk, Mr. Goltz stated that the sign on Center Boulevard is to identify the business.

The hearing was opened to public testimony.

Margaret Hansen, Marin resident, stated that she was the first mechanic in Marin County in the 1970's. She is concerned about the limited parking in the already congested location. She does not feel that the applicant has provided the correct number of employees; it would be more like 9-11 employees. She wondered where they would

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park. She does not feel there is sufficient parking on the site for customers and felt there should be a condition on the number of employees or eliminate the oil change spaces, which will eliminate some of the employees.

David Hunter, 1546 San Anselmo Avenue, is concerned about the traffic circulation. He wondered if the Police Department was consulted about the safety of the site. He also wondered how the oil is removed from the site. He was opposed to deciduous trees, because they would be exposed. He was opposed to the "Welcome to San Anselmo" sign. He also wondered if there were intentions to sell alcohol on site.

Commissioner Cronk wondered if the trees would be similar to the trees in Creek Park.

Paul Leffingwell, Landscape Architect representing the applicant, stated that tulip trees, aristocrat trees would be planted. He did not want to use evergreen trees because it would be difficult to see through the trees and clear visibility is an important factor at the HUB. A large tree will provide a canopy over the street.

Chair Zwick wondered if there was a restriction that prohibits ADA parking to cross a lane of parking.

Ms. Chaney stated that she did consult with the Police Chief and he was happy that one of the driveways will be eliminated. Also, delivery trucks are restricted to the non-peak traffic time. On behalf of Commissioner Israel, she wondered if the bay doors could be lowered a little. Also, a condition could be added that states sales of alcohol is prohibited.

Commissioner Wittenkeller was concerned about special signage for sales of other merchandise and tire racks but he is not opposed to the sale of batteries and other small parts.

Mr. DeCota stated that he would not sell beer and wine on the premises. The oil is drained into a metal tank under the car. A small truck that has a suction on it takes the oil. The same applies for antifreeze or any other hazardous waste. The employees in San Rafael at Pennzoil use handicapped employees and people being trained and that is why they have the number of employees on site. He does not plan on using handicapped employees. There will be a cashier, a technician to prepare paperwork, and he will work diligently with overflow parking. It is not in his best interest to have over congestion on the site. Most of the time there would be four employees, with less on Sunday. It is not his intent to have 9 employees.

Commissioner Dowd asked if PG&E might allow for overflow parking. Mr. Goltz stated that they will not allow cars to block the entrance. Mr. DeCota said they will investigate it.

Commissioner Dowd was pleased with the design and understands there may be concerns with parking by other Commissioners but he was supportive of the proposal.

Commissioner Harle is content with the project as proposed.

Commissioner Wittenkeller would not like to see an auto repair facility as the focus point of the HUB but this is very sensitively done. It should be conditioned that no customer's cars can be parked on the street, that employee parking be off site, the project be reviewed within one year and he would not like to see any promotional signage.

Commissioner Cronk was less than thrilled about the auto facility on this site but complimented the applicant for how the design has been handled. She is concerned about parking but it is not practical to ask the applicant to move the parking once it is approved. She would like employee parking off site and would go with the applicant's current parking plan. The San Anselmo sign should be compatible with the Downtown Plan. She would like alcohol restricted and liked the idea of reducing the bay.

Chair Zwick stated that the question is really how the parking is addressed on the site and he does not feel the parking study has accomplished that. It is a very tight site and he is not ready to vote in support of this project. He did not think the overhead doors facing Sir Francis Drake were appropriate. He would prefer to see only one large skylight, and the fountain is an addition to the Town but cannot be accessed unless they go through the building.

Commissioner Cronk is also concerned about the on-site parking and wondered if the applicant would be interested in addressing the specific concerns regarding parking.

Mr. DeCota responded that he is not willing to continue the project but would do everything he could to work with the community. He is building a million dollar auto repair business for San Anselmo.

Commissioner Wittenkeller is concerned that if the business is successful, the site will be short of parking. He does not want other successful businesses be negatively detrimental relating to traffic.

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Mr. Goltz stated that they could live with no customer cars on the street and employee parking off site with the parking sticker; and could work out a deal with a nearby funeral home for excess parking.

Commissioner Harle stated that the parking requirements meet the C-3 zone but may not be adequate for this use. He wondered if the applicant could put together a plan that provides for those people who leave their car there all day, those that drive through, etc.

The applicant wanted the Commission to vote on the proposal tonight.

M/s Wittenkeller/Dowd, and passed (5-1 Zwick: No), to approve the project based on the staff report: Additional conditions are:

1. Employee parking to be provided off-site and off-street;
2. Applicant to provide customer parking off-site, if necessary;
3. Sale of beer and wine is prohibited;
4. Signage is to be compatible with the downtown plan;
5. Amend Condition 12: "the Welcome to San Anselmo" sign shall be compatible with the downtown revitalization committee.
6. The flowerbed shall be cut back 4' and widened in that area by the fountain.

3. **V-9805 – Mike and Louise Berlin, 9 Sheila Court, A/P 5-021-13, A Variance to allow the following additions:** 1) A two-story, 9'4" long addition expanding the existing familyroom and master bedroom within 4' of the southerly side property line (8' required). Addition is to the rear of the existing house. 2) A 6' long garage extension to the front of the existing garage, within 4' of the southerly property line (8' required), on property located within the R-1 zoning District (Above the 150' elevation) (Staff person: Griffin)

Mr. Griffin presented the staff report.

Mike Berlin, applicant, stated that he met on the site with Mr. and Mrs. Fernandez and he proposed a shed style roof for a compromise. The original proposal by the Mr. Fernandez would not work because they would not be able to supervise their children. They are not asking for a variance for the second story. He looked at his site from the Fernandez site and did not think the roof would even be visible. The alternative proposed by Mr. Fernandez was that they excavate under the house. After talking with their architect, that alternative was not feasible. He would also consider bumping in the lower rear portion if that would make them happy, although it would make the portion very small and not that functional.

Louise Berlin, applicant, stated that they are trying to make improvements to their property over time. They have tried to compromise with their neighbor. They were also surprised that staff cannot support their proposal. There is a high retaining wall in the rear of the property. To square off the extension, would be a negative impact. Because of the slope and shape of the lot, there are no alternatives for a two-car parking. The Town needs off-street parking and they are allowing two cars in the garage and two in the driveway. They are only asking for what other neighbors have; many houses have garages and many encroach into the setbacks. The Commission must weight the concerns of the Fernandezes. The solar study showed that the only possible shading would be in the morning. The solar drawing proves there are no negative impacts and the story poles show how minimal the addition is. They can push their addition out 8'. She did not think that her addition would significantly impact their neighbors. She presented letters of support from two neighbors on Sheila Court.

Robert Epstein, attorney representing Mr. and Mrs. Fernandez at 77 Scenic Avenue, spoke about the proposal as follows:

- The survey performed indicates that the subject property encroaches into the setbacks. He wonders why this project is not required for a design review as well as a variance. The Government Code is very specific of what the special circumstances would be. He does not see any special circumstances for the variance.
- The garage space is limited because a wall was built that decreases the two car tandem garage. That wall could be put back to its original condition. The space was used as a illegal second unit.
- This is a neighborhood where there are many one car garages; to permit a two car garage, where one already existed, is a grant of special circumstances.
- The Fernandezes have the smallest house on a small lot. The proposal would have a significant negative impact on them. The light, air and privacy would be significantly impacted in the Fernandezes living room on the north side of the house.
- The sunlight calculations are misleading.
- He presented a diagram of how the sunlight will impact his clients.
- The 6' fence sits on top of a retaining wall that is 3'7". This violates the Town Code and is intrusive and blocks his client's home. There is a wind factor in this neighborhood and should be considered and to extend the back of the house and the fence will exacerbate the problem. Regarding staff alternatives, he is unclear why

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they will not require design review. He felt the illegal area downstairs should be considered in calculations.

Steve Stephens, 27 Angela Avenue, would like to see the light and air preserved for the Fernandezes. He understands the Berlins desire for changes but the garage was changed illegally and should be brought back to the original condition.

Walt Takeshita, 64 Angela Avenue, is opposed to the variance because it is too close to the property lines. Variances should be restricted to severe hardship cases.

Richard Summers, 41 Angela Avenue, stated that he had a similar situation several years ago when he wanted a variance. He made many sacrifices to obtain his variance.

Rudy Fernandez, 77 Scenic Avenue, stated that he has one window that provides light and he does not want to give it up. Also, the applicants are proposing a second story window that would look right into his living room. He would like the second story windows reduced to 2' x 6' and the lower windows opaque, which will provide privacy for him.

Mr. Berlin stated that he would be happy with bookshelf windows. The interior wall was inspected during the time of the Resale Inspection and was not addressed by the Building Inspector. The current location is the most logical location because of the slope. He noted that the fence is not part of this application.

The hearing was closed to public testimony.

Commissioner Wittenkeller wondered if Mr. Fernandez could live with the proposal if there is a change in windows. Mr. Fernandez stated that he could not agree to the front, but could live with the rear.

Mr. Berlin said that they want two car, covered parking. Mrs. Berlin added that the front is more important; if the downstairs rear is moved in, they could live with it.

Chair Zwick stated that progress has been made by this discussion. Mr. Epstein stated that his client would not like the front extension and the Berlins want the front addition. He does not feel the evidence is there to make the special circumstances for approval.

Commissioner Wittenkeller would be in favor of a continuance and Commissioner Dowd felt there was room for compromise. Commissioner Harle stated that if it is decided at the Commission, it will probably be a compromise by force. It would be wise to deal with the issues as dispationally as possible.

Mr. Berlin asked the Commission if one Commissioner would be willing to act as a mediator because they are basically at a stand still right now.

Commissioner Dowd stated that he would be willing to mediate with the applicant and the Fernandez.

M/s Wittenkeller/Cronk, and unanimously passed (6-0), to continue the application until the meeting of 3/16/98.

**4. DR-9806/V-9804 – Mark Watson, 1251 San Anselmo Avenue, A/P 7-081-57 A Variance to convert the existing carport into a garage. Carport is 4'6" from the property line (20' required), and 1'8" from the easterly side property line (8' required), on property located within the R-1 Zoning District (Staff person: Griffin)**

Due to the lateness of the hour, the application was continued to the meeting of 3/2/98.

**5. DR-9807 – Rick and Sarah Bernard, 230 Oak Springs Drive, A/P 5-291-03 Design Review to build a new, 2,498 square foot, two-story single family home on a vacant lot. Proposal also includes an attached, two-car garage, located on property located within the R-1 Zoning District (Above the 150' mean sea level) (Staff person: Griffin)**

Due to the lateness of the hour, the application was continued to the meeting of 3/2/98.

**WITHDRAWN ITEM**

**1. U-9304/V-9744 – Wyn Hoag, 22 Magnolia Avenue, A/P 7-212-34, amendments to the 1993 approved use permit and parking variance: 1) to change the use from one 1,694 square foot residence and one 586 square foot professional office to the use of 2,280 square feet of professional offices; and 2) to retain the existing 4 tandem parking spaces in the front yard, but change the parking variance request: the previous use had required 7 on-site parking spaces, and the current use requires 8 on-site parking spaces on property located within the Professional (P) Zone. (Staff person: Wight)**

**CONTINUED ITEMS**

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1. **V-9801 – Tom Restaino and Jan Becker, 72 Alder Avenue, AP 7-041-26, a variance request to construct a guest cottage within 3' of the west side property line (8' required), on property located within the R-1 Zoning District. (Staff person: Wight) CONTINUED TO 4/20/98**

2. **ER-9701 - Curtis Eisenberger, A/P Nos. 5-031-35, 5-081-07, and 5-081-19. Review of Negative Declaration regarding Environmental Impact. Environmental review of a proposal to subdivide a 21.66 acre parcel of land into four home sites on 5.95 acres and dedication of 15.71 acres for public open space. The project site is located at the end of the Traxler and Valley Roads and covers the steeply sloping hillsides on either side of the drainage course, on property located within the R-1-H Zoning District. (Staff person: Wight) CONTINUED TO 3/2/98**

**GENERAL DISCUSSION**

Judy House has been appointed as the new Planning Commissioner.

**REPORT OF UPCOMING APPEALS TO TOWN COUNCIL**

**ADJOURNMENT**

The San Anselmo Planning Commission was adjourned 11:45 p.m. to the next meeting on March 2, 1998.

**BARBARA CHAMBERS**