

**SAN ANSELMO PLANNING COMMISSION
MINUTES OF DECEMBER 4, 2000**

CALL TO ORDER

Commissioners present: Chair House, Vice Chair Jochum, Commissioners Couture, Wittenkeller (arrived after motion on Consent Agenda) and Zwick

Staff present: Planning Director Feagans and Senior Planner Wight

OPEN TIME FOR PUBLIC EXPRESSION

Fred Divine, architect representing the applicant of 41-43 Tomahawk, wanted to advise the Commission that they were appealing the Planning Commission's decision to the Town Council. Their appeal will respond to the Planning Commission comments that were made to the applicant. His client has repositioned the story poles and talked to the neighbors. The owner of 40 Indian Rock now supports the project. They are also looking at the critical Broadmoor view and looking at the General Plan guidelines for hillside development. He would appreciate any additional input from the Commission prior to the Council hearing.

Robert Leedy, 65 Sequoia Drive, wanted to comment on the public noticing policy. He felt that people, even though they may be outside of the legal noticing area, should be noticed if they are impacted by a particular project in their neighborhood.

CONTINUED ITEMS

1. **DR-0035 – Laura Merrill, 285 Redwood Road, A/P 7-097-06, design review to construct a new 3,613 square foot house and 500 square foot garage in the R-1 Zoning District (Above 150' msl). (Staff person: Feagans) CONTINUED TO 12/18/00**
2. **V-0039/DR-0041 Mark Voorsanger and Kay Feallock, 60 Sequoia, AP 6-165-08, setback variance to construct a 342 square foot second story addition within 5'-6" of the front property line (Code: 20') on property located within the R-1 Zoning District. (Staff person: Feagans) CONTINUED TO 12/18/00**
3. **U-0011 – Talin Agharzarian for The Alaris Group, 921 Sir Francis Drake Boulevard, A/P 6-073-09, use permit to install two cellular antennas on the north elevation of the church building and one antenna on the south elevation. Antennas will be 5' in height and screened by a decorative shroud matching the color of the exterior building wall, on property located within the R-3 Zoning District. (Staff person: Feagans) CONTINUED – OFF CALENDAR**

CONSENT AGENDA

1. **Minutes – November 20, 2000**
2. **DR-0038 - Huron Properties, L.L.C., 9 Indian Rock Court, A/P 177-250-55, design review of a new single family dwelling, on property located within the R-1 Zoning District. (Staff person: Wight).**
3. **DR Amendment - Sarita Patel for George Lucas, 133 Essex, APN's 6-121-01 and 02, to permit the existing wood fence along the property frontage on Ancho Vista Avenue to remain (PC 1996 approval: to replace wood fence with 2' high wood retaining wall with a black vinyl-coded chain link fence to extend up to 6' above the adjacent roadway). (Staff person: Wight)**
4. **V-0040/DR-0044 Carvel Johnson, 296 Redwood Road, AP 7-095-36, a setback variance and design review to construct an uncovered deck within 12 feet of the front property line (Code setback: 14'), on property located within the R-1 Zoning District (above msl) (Staff person: Wight)**

Commissioner Couture asked to remove Item 3: 133 Essex, from the Consent Agenda.

M/s Jochum/Couture, and unanimously passed (4-0) to approve the Consent Agenda Items 1,2 and 4.

Chair House advised all parties of interest of the ten-day appeal period to the Town Council.

STUDY SESSION

1. **Review of draft procedures to encourage compliance with project conditions and establishing a range of penalties when violations occur. (Staff person: Feagans)**

Ms. Feagans provided an overview of the proposal.

**SAN ANSELMO PLANNING COMMISSION
MINUTES OF DECEMBER 4, 2000**

Chair House asked for input by other Commissioners with regard to deadlines for project completion.

Commissioner Couture commented that there are several reasons why projects are not completed within a timely manner. There could be a situation where the homeowner does his own work and has limited time to work on the project. Or it could be a high-end custom home where it is not easy to finish a project because of items that are special ordered.

Commissioner Zwick stated that he has more concern about people following project conditions rather than requiring a completion date on projects.

Chair House said she liked the idea of paying a fine and then allowing an appeal method.

Commissioner Zwick liked the idea that the owner would be required to pay a fine up front.

Jonathan Braun, 479 Scenic Avenue, said there are a lot of cases where the conditions of approval have not been followed. He would like there to be a letter of understand that the applicant signs prior to picking up their permit. Regarding enforcement – the after-the-fact changes have usually been fairly soon after occupancy. Perhaps there should be a six month completion review. He does not think there is enough staff time to review and monitor all the conditions. He would like to see an additional position created for the more difficult projects such as Quarry Mountain and Seminary Estates. The cost of the employee might even be charged to the developer. He was also concerned about the significant changes on projects that have previously been approved after many public hearings and neighborhood input. He thought there should be some criteria for why the original condition was placed on the approval and then placed in a prominent place within the planning file.

Commissioner Zwick suggested that a summary letter outlining all the conditions of approval be included with the building permit and have the architect stamp the letter indicating that they understand what the conditions are. This could be signed at the beginning as well as at the end of the project. He also liked the idea of a performance bond so if violations occur, money can be deducted from the performance bond. He suggested the bond amount could be based on the scope of the project.

Commissioner Jochum said he is very reluctant to use deed restrictions to place a requirement on a homeowner and should only be used under very special circumstances. He also stated that the decision made on projects today might not necessarily mean the same for the project in the future because situation may have changed.

PUBLIC HEARING

- 1A. **DR Amendment - Sarita Patel for George Lucas, 133 Essex, APN's 6-121-01 and 02, to permit the existing wood fence along the property frontage on Ancho Vista Avenue to remain (PC 1996 approval: to replace wood fence with 2' high wood retaining wall with a black vinyl-coded chain link fence to extend up to 6' above the adjacent roadway). (Staff person: Wight) Taken from Consent Agenda.**

Ms. Wight presented the Staff Report, noting that she received letters from the owner of 19 Cottage asking that the fence be changed and the owner of 104 Sequoia who supports the proposal.

Doug Ferguson, attorney representing the applicant, said they fully expected to honor the conditions and they were willing to make the changes. However, since that time, there have been several issues of vandalism on the property. The idea of replacing the fence with a fence that could make it easier to climb does not make sense. The Chief of Police concurs with this approach to keep the wood fence. Mr. Ferguson agreed that the fence is not beautiful, but there are other wood fences along the street that are similar. They would be willing to add landscaping, which would give a nicer appearance to the area.

Alan Wulzen, 55 Sequoia Drive, said he is opposed to the wood fence now and was opposed to it in 1996. He wants to be able to look through the fence into the property and view the open space. He also wants the open look as he drives down the street. This is not the applicant's residence; it is used as a guesthouse. There are ways to secure the top of a chain link fence so people cannot climb over the top of the fence. He provided photographs of different proposals that could be discussed.

Robert Levy, 65 Sequoia Drive, said that he would like Mr. Lucas to keep his promise to the neighborhood. He is opposed to the wood fence and wants to look at the ravine that they were able to look at for several years.

**SAN ANSELMO PLANNING COMMISSION
MINUTES OF DECEMBER 4, 2000**

Nancy Morita, 6 Cypress, said that Rustic Lane is a town easement as shown on town maps and she is not sure that the area could be closed off. She said there were 35 people that signed a petition for the wildlife protection and if it were closed off, the wildlife would not be able to get to the area. The applicant said they would remove the wood fence, but that has not happen. They also said they would preserve two heritage trees, but she does not think that has happened. She felt that the decision should be considered very carefully. She also said there might be a violation of the Brown Act because a member of the planning staff visited the site and discussed the project ahead of time with Ms. Patel.

Sarita Patel, representing the applicant, said the number one problem is that people feel the loss of view. However, the property belongs to a private citizen and not the neighbors. With regard to the comment about a violation of the Brown Act, she takes issue with that comment. There is no violation of the Brown Act. She had a meeting with the Senior Planner about another issue and at that time they also discussed the fence.

Commissioner Wittenkeller said that he was on the Commission when this project was approved and there were conditions placed on the project. That parcel of land could have been subdivided. Mr. Lucas agreed to take all the land and build a guesthouse. The Commission felt it was quite an improvement by not having to see four or five homes on the site. It was considered a benefit to San Anselmo. He does have to agree however, that the fence is unattractive but he is sympathetic to Mr. Lucas's security needs and his privacy and can therefore support the proposal.

Ms. Wight stated that the wildlife opening is still there and is not part of this application to close off that area.

Ms. Patel explained that that the deer openings are within the property and are still there. Many people walk down Ancho Vista and many people try to climb over the fence. Openings have been made in the black cyclone fence on the upper portion of the property. Rustic Lane runs down into the gully. There was an opening where people could get through. However, the opening is right next to her house so she has shut and locked the gate. Teenagers have used the area for a drinking heaven. She noted however, that it was not part of the wildlife area and she closed it off because of safety and privacy reasons.

Commissioner Couture said that it appears that there were reasons for the cyclone fence being approved during the original hearings and the decision was well thought out. His tendency is that the condition should remain. There are other options for open vertical fencing which people can not climb up.

Commissioner Zwick said there are also other types of chain link fences, of which the diameter of the wire gets smaller and harder to climb. There was a promise made to the neighbors and it appeared to be an important issue. He also wanted to make sure the wildlife openings are still left open and accessible.

Commissioner Jochum stated that in this case he really is sympathetic to the security issue. His problem with fencing is when it closes off the front yards and the street becomes a cavern of fencing. He is responsive to the needs of security. The fence, although not up to Mr. Lucas's normal quality, would be greatly helped by landscaping.

Chair House said that she is generally not in favor of fences because it does not look welcoming. This however, is not your typical residential street. The applicant does have special needs for security and she is in favor of the fence with the additional landscaping that would help make the streetscape more attractive.

M/s Wittenkeller/Jochum, and passed (3-2 Noes: Couture and Zwick), to approve the application based on the findings and conditions as set forth in the staff report.

Chair House advised all parties of interest of the ten day appeal period to the Town Council.

1. **V-0030/DR-0033 – Bruce and Kelly Krill, 1640 San Anselmo Avenue, A/P 5-191-23, setback variance: to construct a 1,086 square foot first story addition within 6' of the northwest side property line (Code setback: 8') (this will necessitate removal of an existing shed, mudroom, and bathroom); design review and setback variance to construct a 649 square foot second story addition within 12.5' of the rear property line (Code setback: 20'), and setback variances to construct a 420 square foot garage within 12.5' of the rear property line (Code setbacks: 8' side; 20' rear), on property located within the R-1 Zoning District. (Staff: Wight)**

Ms. Wight presented the Staff Report.

Bruce Krill, applicant, presented a video of how vehicles would be able to exit the garage with and without the side yard variance. He noted that the video indicates the difficulty of exiting the garage if they were not granted the 2 foot variance.

**SAN ANSELMO PLANNING COMMISSION
MINUTES OF DECEMBER 4, 2000**

Tony Cox, 1644 San Anselmo Avenue, said there was concurrence by the Commission that the tree would not survive. At some point the root structure would weaken to a point that it could fall during a storm or an earthquake. Given its size, height, and spread, it will cause damage, no matter which way it falls. He is concerned for the safety of his family and his property and he wants to know who would be responsible for the liability when the tree does fall and if there is damage to his property.

Commissioner Couture stated that the consensus by the Commission at the last meeting was that the Commission wanted the applicant to honor the 8' side yard set back even though the applicant has requested the 2' variance. He asked Mr. Cox what his opinion was regarding this.

Mr. Cox responded that he was opposed to the addition because it would reduce their sunlight and the structure would be overbearing.

Mr. Vincent, representing the owner of 1644 San Anselmo Avenue, said that if the Commission approves a project knowing that a heritage tree would die would be precedent setting. Regarding the safety issue, he would suggest an arborist be required on an annual basis to evaluate the health and safety of the tree. He also asked if the Fire Marshall has been contacted regarding ingress and egress into the property.

Ms. Wight responded that she did not discuss the ingress or egress with the Fire Department.

Kelly Krill, applicant, stated that the tree issue has been covered. They prune their trees regularly and she has no problem having the arborist prepare a report addressing the safety of the tree. They have lowered the roof structure from the original design and they really want to work with their neighbors with regard to the driveway issue.

Commissioner Zwick said he would like to propose a compromise. Although it is difficult to get out of the garage and make the turn, it would be better if they reduced the depth of the garage by one foot, to 19', but still require the 8' setback.

Commissioner Jochum said the proposed turning radius is 29' and 24' is a standard pullout radius for commercial spaces. The problem is the rock wall. Once that wall is moved back, the problem will go away. He does not see any reason to grant the 2' side yard variance. He is very much on the border voting against the project because of the impact to the neighbor at 1644 San Anselmo Avenue, but he would support it only if they meet the 8' setback.

Ms. Wight noted that if the applicant reduces the length of the garage to 19', the parking inside the garage would be substandard and would also require a variance.

Commissioner Couture said that 24' is the accepted backup distance and it works just fine. The added back up space for the retaining wall make an enormous difference. The neighbor is also objecting to the variance for that portion of the building and he is opposed to the variance in that location.

Commissioner Wittenkeller said he is very concerned about the encroachment and the winter shadows onto the neighbor's property. He would like the setback honored. Regarding the heritage oak tree – once it is covered over it will not get the natural precipitation. If the effort were a serious one, they would seek to get water to the tree roots. One way would be to have gutter or roof water be dispersed to the roots to provide moisture.

Chair House said that she does not have great depth perception and if she had to back her car out of the garage she would like to have as much room as possible. She is in favor of allowing the side yard variance. The light and air issues have been ameliorated to the neighbors by having the house low in the middle and tall in the back. Therefore, she is in favor of the staff report. With regard to the liability issue of the tree, the neighbor should talk to their insurance company. It seems to her that the applicants have truly tried to save the tree.

Mr. Krill said that they are planning to soften the garage side of the building with trees. The ability to back out would only help one of the parking spaces when they remove the rock wall. They also looked at putting a jog in the garage but it would create other problems.

Jim Grove, 1 Mono Lane, stated that the width of their garage would prevent them from taking the turn until they are out of their garage and he wondered if that is a consideration with commercial spaces.

Commissioner Couture explained that they do work on a similar basis.

**SAN ANSELMO PLANNING COMMISSION
MINUTES OF DECEMBER 4, 2000**

Commissioner Jochum said that he would like to approve something everyone would like but the alternative is that they do not build in that area. He cannot support the side yard setback variance.

M/s Couture/Jochum, and passed (3-2 Noes: House and Wittenkeller) to approve the following based on the findings and conditions as set forth in the staff report: 1) Approval is based on the plans date stamped received by the San Anselmo Planning Department on August 7, 2000; 2) All recommendations in the two Arboricultural Assessments should be complied with. The Town Engineer shall work with the applicant's arborist and soils engineer to tighten up the language relative to the root system, subject to approval by Planning staff; 3) Applicant shall apply for and pay all appropriate fees for building permits, plan checks and inspections; and 4) If construction is not commenced within one year from the date of final action, the permit becomes null and void. However, this discretionary action may be reviewed by the Planning Director for a maximum period of one (1) year provided the applicant places such a request in writing to the Planning Director showing good cause prior to the expiration of the discretionary action. 5) The setback variance approval applies only to the one-story structure, and that the two story structure must adhere to the 8' northwest side setback.

Chair House advised all parties of interest of the ten-day appeal period to the Town Council.

2. **Z-0001/DR-0001/DR-0043/UP-0012 - San Francisco Theological Seminary, 26 Kensington Road, AP 7-292-02, Amendment to the Master Plan, environmental review, and use permit to permit the existing dwelling (which was designated to be demolished) to be repaired, extended with two decks; and used as housing for up to 12 students, on property located within the SPD District. (Staff person: Wight)**

Commissioner Zwick recused himself from this project.

Ms. Wight presented the Staff Report.

Scott Schaeffer, representing the Seminary, stated that the original plan was to turn this into guest housing. Now that this will only be student housing they are not required to have as strict ADA compliance and the cost has been reduced, but will be approximately \$700,000.

Commissioner Couture stated that saving the building is a tremendous asset to the Town.

Commissioner Wittenkeller concurred with Commissioner Couture.

M/s Wittenkeller/Jochum, and unanimously passed (4-0), to recommend approval to the Town Council at their meeting on December 12, 2000.

GENERAL DISCUSSION

REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

41-43 Tomahawk and 20 Greenfield will be heard at the December 12th Town Council meeting.

ADJOURNMENT TO MONDAY, DECEMBER 18, 2000

The meeting was adjourned at 8:50

**BARBARA CHAMBERS
PLANNING TECHNICIAN**