

TOWN OF SAN ANSELMO PLANNING COMMISSION
MINUTES, OCTOBER 15, 2007

A. CALL TO ORDER

Commissioners present: Krebs, Harris, Overberger, Schinner, Sisich, Zwick
Commissioners absent:

B. OPEN TIME FOR PUBLIC EXPRESSION

C. CONTINUED ITEMS

1. **DR-0734 – Larry and Debbie Stadtner, 10 Foss Avenue, APN 007-232-50,** Flatland Design Review of a ±1,617 second story addition, 126 square foot 2nd story deck and 180 square foot roof deck over the 1st floor, in conjunction with a new ±3,974 square foot dwelling, on property located in the R-1 zoning district. (staff person: consultant Henderson)

D. PUBLIC HEARING ITEMS

CONSENT AGENDA

1. **Minutes – October 1, 2007**

M/s Harris/Zwick passed (5-0) to approve the October 1, 2007 minutes as submitted.

REGULAR AGENDA

2. **DR-0726/U-0714 – Claudia and David Eiseman, 48 Raymond Avenue, APN 007-171-28,** Use Permit to demolish a single family dwelling; Flatland Design Review of a 1,452± square foot second floor in a new 3,871± square foot single family dwelling with a 456± square foot covered porch, and 672± square feet of decking, on property located in the R-1 zoning district. (staff person: consultant Vazquez)

Chair Krebs recused himself.

Consultant Jan Vazquez submitted the staff report.

Commissioner Harris asked what authority the Town had to attain the goals of the deed restrictions without actually recording on the deed. Planning and Building Director Lisa Wight responded that for future structures, if setback requirements were met, there would be no need for a deed restriction.

In response to Commissioner Sisich's request for clarification on how big a shed could be, Wight stated 120 feet and 8' height is allowed without a permit.

Sisich also asked if there were any planned fence treatments and Vazquez noted that the size plan shows a fence at the front of the property, however the fence is not subject to design review.

Sisich asked if there was a requirement for new homes to have fences, to which Wight responded no.

Applicant David Eiseman noted that he has tried to listen to the comments from both the Commission and the neighbors.

Architect Ivan Lukrich noted that he wanted to clarify that there is grading being done to the back of the property to minimize the exposure of the underside of the house and also stated that the overall height of the structure is 25 feet which seems to be as low as they can go. Lukridge finally noted that the ceilings are 9 feet on the first floor and 8 feet on the second floor, that all neighbors concerns have been addressed, and that the project is in compliance with all rules and regulations.

Commissioner Schinner asked Lukrich if the applicant is amenable to the staff's recommendations and Lukrich responded that the alternatives are fine.

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Sisich asked about the property line between 40 Raymond and 48 Raymond and noted that historically there has been a fence between the two properties. Sisich also asked if there is plan to put a fence on the true property line. Lukrich responded that a fence would probably be erected on the true property line.

Harris asked if there has been a study or calculations done regarding the pullback and Lukrich responded that the area has been scaled back to a very small space and creates a very small shadow. Lukrich also stated that it was not necessary to recreate the shadow study since the area has been pulled back substantially and the shadow is only a wintertime situation. Lukrich stated that the trees create a substantial amount of shadow by themselves.

Paul Smith, Land Use Attorney, spoke about deed restrictions and noted that the staff report does not include any deed restrictions. Smith also noted that restrictions relate to items that are not in the application. Finally, Smith stated that deed restrictions are significant recorded limitations on property, which seem inappropriate and is not good land use planning.

Jeff Kroot, Crescent Road, stated that he was concerned about a 100-year old historical building being demolished. Kroot asked the Commission to make strong findings on the reason the demolition is being allowed, if allowed. Finally, Kroot noted that there is a For Sale sign at 48 Raymond and stated that he would have been happy to have the applicants as neighbors and that the only issues have been of demolition, size and impact and was not personal. Kroot wished the applicants well.

Jeff Kroot for Rex Thompson, Raymond Avenue, stated that he appreciates the changes but has concerns about the fence. Kroot also noted that Thompson is concerned about drainage as water comes down the hillside and would like the Public Works Director to look into any proposed hardscape in the area.

Mary Ann, Laurel Avenue, asked if the under story of the house would be built out and Vazquez responded that yes, the under story would be built out. Vazquez also noted that the plan is to fill with raw dirt and put the foundation on top. Vazquez also noted that it would not be sufficient height to build out as habitable space. Vazquez also noted that there are currently no zoning restrictions that would stop the owner from making the space habitable. Vazquez further noted that the applicant is trying to demonstrate that they have no intentions of building out the area by filling it in.

Commissioner Zwick asked about the landscaping plan and planting the plantings early as opposed to waiting for construction could be a condition of approval.

Commissioner Overberger noted that builders do not affect plantings.

Louise Matthews, Foothill Road, stated that she is concerned that historically the Planning Commission and Council have found great viability in deed restrictions, and would like the Planning Commission to state a clear policy and not utilize deed restrictions.

In response to Zwick, Wight interpreted the use permit findings for demolition.

Zwick noted that he is concerned about losing the historic building stock in San Anselmo as well as the lack of a strong ordinance. Zwick also suggested looking at clusters of homes that might meet criteria to be deemed historic neighborhoods. Finally, Zwick noted that the undercarriage and outbuilding could be built in the future, but the Commission has to consider current development plans as well as what could be done with administrative approval.

Sisich noted that deed restrictions have been used historically because applicants have taken proposed structures off of plans, only to build them after the project is approved. Sisich also stated that he is ok with the project without doing the deed restrictions as it seems to be too much in this case. Sisich further noted that he respects Jeff Kroot's comments regarding historic homes and that he is ok with the use permit for the demolition. Finally, Sisich stated that he wanted the owner at 40 Raymond to assume

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that a new fence will be way down the hill, as the neighbor has gotten used to having a higher property line.

Commissioner Overberger noted that she doesn't know what else to do around the historical issue, and that she doesn't really like deed restrictions as it seems unfair to impose a deed restriction on a property owner to not build future structures. Overberger also noted that she would not like to see much more of the property covered with additional building and that she is ok with the project and appreciates the changes that have been made.

Commissioner Harris noted that he shares Mr. Kroot's comments about trying to preserve and restore historical buildings; however the Commission has no purview to do so with the proposed application. In regards to the deed restriction, Harris noted that the Commission has no authority to deal with an accessory structure that is no longer being proposed and not subject to the approval of the Planning Commission. Harris also noted that it is not appropriate to take the steps of deed restriction in this case. Harris noted that the applicant has proposed to put in landscape screening for the under story of the house and that the issue of deed restriction which seeks to address issues of privacy is being addressed by the landscaping. Finally, Harris noted that he can go with the staff's recommendation and that he is very appreciative of the significant changes made by the applicant.

Commissioner Schinner stated that when the matter first came before the Commission, his first concern was about the Use Permit and further stated that he asked the applicant to make findings on the historical significance of the building. Schinner also stated that he agrees that the Town should encourage preservation. Schinner further noted that he is concerned about the height and mass of the proposed building and the suggested impact of light and air on the neighbors. Schinner also noted that he agrees with the applicant that based on the shadow study, the proposed changes should address any concerns of unreasonable impact on the neighbors. Schinner noted that he could support the staff report.

Zwick noted that if the Town wants to preserve historical homes, adjustments need to be made to the ordinance. Zwick also thanked the applicant for making the changes and noted that he thinks the project is a nice looking building. Zwick stated that he doesn't feel that the Commission needs to make a deed restriction against future structures on the lot and can support the staff report.

Harris stated that he appreciated Mr. Kroot's comments to the applicant regarding the For Sale sign and further noted that if 48 Raymond is for sale due to the personal impact that the applicants felt going through the process, he would encourage all to keep everything merit based and not take things personally.

M/s Sisich/Overberger and passed (5-0) to move the staff report.

Applicant was advised of the 10-day appeal period to the Town Council.

3. **U-0715/DR-0727/V-0726 – Patrick and Denise Courtney, 194 Scenic Avenue, APN 007-63-17**, Use Permit for the demolition of an existing 1,490 square foot single family dwelling; Hillside Design Review of a proposed 3,739 square foot, two-story single family dwelling, 499 square foot garage, with 1,752 square feet of decks and terraces; Setback Variance to construct a garage within 3'9" of the front property line and driveway support walls up to 7' in height within 1' of the front property line (Code setback: 20'); and Heritage Tree removal permits to remove 5 Heritage trees (one oak and four bays) located in the R-1 C zoning district. (staff person: consultant Vazquez)

Consultant Jan Vazquez presented the staff report. Vazquez noted that condition for approval #1 in the staff report should include that the Sheets DR.1 through DR.2 were received June 7, 2007.

Planning and Building Director Lisa Wight noted that condition for approval #3 in the staff report should state "proposed" colors instead of "approved" colors.

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Commissioner Harris asked about imposing deed restrictions in regard to condition for approval #15 and Vazquez responded that any further tree removal would require review. Wight noted that condition for approval #17 should include condition #16 instead of #15.

Applicant Pat Courtney stated that he bought the lot four years ago and likes that the house is situated on the northwest corner of the lot and surrounded by trees. Applicant also said that he likes the fact that the structure wouldn't be visible anywhere and that he is comfortable with all of the design criteria. Applicant stated that he is interested in living in San Anselmo as he currently lives in Sausalito, which is a tough place to raise kids. Applicant expressed to the Commission that he would like to build a house that meets his needs and doesn't adversely affect the neighbors and said that much of the house is subsurface, and any excavated dirt would be used on the project. Applicant explained to the Commission that he submitted plans two years ago and the Town recommended that he reduce impact and in response he lowered the house and removed the third floor. Applicant stated that he thinks the plan is reasonable in all respects. Applicant said that he hopes to share the cost of providing a turnout for the Fire Department on Scenic Avenue. Applicant also asked the Commission to make a condition that construction of the house begin simultaneously with the construction of the required fire hydrant in condition for approval #10 or make the approval of the plan effective upon building of the fire hydrant.

Jonathan Braun, Scenic Avenue, expressed that he was in strong disagreement with Public Works Director Rabi Elias about Scenic Avenue and said that the road is substandard and a blind curve and very dangerous. Braun noted that in relating to the overall development of the site, there will be two very large dwellings close together on this site and adjacent No. 190 and suggested a way of mitigating that would be to redesign the living room and expand the green space to separate the large developments for low visual impact. In regards to the grading, Braun noted that framing and crawl space could be eliminated with slab on grade, the ground could be raised, reducing the grade and overall height of the house. Braun also noted that he thinks the color of the stucco is too light and that it is hard to judge by the submitted sample.

Planning and Building Director Lisa Wight explained that eliminating the five-foot area of curve Braun mentioned would still leave a car extending out if one were parked there, which the Public Works Director feels would be a hazard.

Karen Benke, Summit Road stated that she is concerned with road safety as the curve is very dangerous and the road is substandard. Benke also stated that she thinks the biggest issue is that anyone who builds needs to be consistent with requirements, but that no required road improvements with this project is not acceptable. Benke noted that the house is beautiful and that she wants to make sure that the road is improved as there will be increased traffic. Finally, Benke asked for consistent construction rule times.

Louise Matthews, Foothill Road, expressed that the concern of residents of Foothill Road is that construction vehicles will have access to the property for parking and staging on Foothill Road. Matthews noted that the properties are private and that there is no place for construction vehicles. Matthews further stated that Foothill Road was paved three years ago, and that she didn't see any requirements for a road bond in the plans. Matthews noted that a previous staff report indicated that visitor parking would be provided via Foothill Road as one of the required two parking spaces.

Matthews noted that she is interested in how the Town classifies property as R-1C Zoning. Matthews also asked about the storm drainage retention plan and how much water is being retained and over what period of time is it being released. Matthews noted that she thinks the water will be let out on the downhill side leading into the Town's public walkway. Finally, Matthews noted that she wants to make certain there is not a through road for access to 190 Scenic Avenue and said she would like to know if there is a gate that can be released by the Fire Department that would block the occupants of 190 Scenic Avenue from accessing Foothill Road.

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Commissioner Schinner asked if there was a road bond for the project and Wight responded that road bonds are handled at the building permit stage and that the construction management plan would be determined by the Public Works Director.

Schinner asked for clarification on R-1C Zoning and Wight responded that at the time the property was considered one lot, it was zoned R-1 C. Once the legal lots of record were established, it was determined that the design review requirements under R-1 C zoning would also apply to R-1 zoning, so there was no need to rezone per the former Town Attorney's direction.

James Quinn, Scenic Avenue, noted that the curve is the nastiest turn on the hill and that the speed of traffic increased when the guardrail was installed. Quinn noted that he appreciates the mirrors that have been installed, but that he is confused about the turnout for the fire trucks, and that the road needs 10mph speed signs. Quinn also expressed concern about the trees and the lack of parking on Scenic after the project is complete.

Applicant noted that he didn't address road widening, as Elias said there was no need to. Applicant noted that he is trying to set the house down low enough and grow hedge high enough so that the house will not be visible. Applicant said that he will do everything possible to keep the trees alive. Applicant also stated that consolidating the living room into the house is a way to eliminate square footage, but not feasible. Applicant stated that the whole goal was to minimize the whole visual mass versus raising the house. Applicant also said that his goal is not to have a through road to Foothill Road and that there will be plantings there. Applicant noted that he hopes to use the road at the bottom of the lot during construction and pave upon completion. Applicant finally noted that he will try to do construction during as many dry months as possible.

Commissioner Sisich noted that he is ok with Elias' recommendation on the roads and that he thinks the stucco color will not be dark enough and could be darker to help screen and blend in. Sisich noted that he could accept the staff report.

Schinner stated he concurred with Sisich, and as most issues center on the road, trees and drainage he concurs with the professionals. Schinner noted that the applicant wants to preserve trees and be a cooperative neighbor, and also agreed that the stucco color could be a shade darker, and suggested making a condition to have the color administratively approved by Wight. Schinner stated that he could also accept the applicant's request to have the construction begin simultaneously with the construction of the fire hydrant.

Commissioner Harris noted that he did not have much to add and noted that the Arborist report was peer reviewed. Harris said that he has always like the aesthetics of the project and accepts staff's recommendation to add five trees on the downhill part of the house. Harris further stated that while Scenic Avenue is a problem, he could only suggest exhorting Elias to use his skills and creativity to take the opportunity to address the curve as related to this project.

Chair Krebs asked Wight about the road and if there is any process by which Elias would review again. Wight responded that it is Elias' call and that there is a Traffic Safety Committee to which the issue could be brought up. Wight also noted that when speaking with Elias his greatest concern was the potential of a car sticking out that would create a hazard.

Krebs also asked if there was concern with cars parking there, and Wight noted that the owner would park there. Krebs also stated that the curb could be painted red.

Krebs asked about access from Foothill Road and Vazquez stated that there could only be private access as the lot has a 10-foot frontage.

Wight stated that Elias would approve the construction management plan. Krebs asked about road bonds and Wight responded that road bonds would be collected.

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Commissioner Overberger asked for clarification on the construction hours and Wight responded that the Bald Hill construction hours could be adopted, as they were for 186 Scenic.

Commissioner Zwick noted that it is a clever move to allow fire trucks to move off the road in an emergency to allow others to leave the hill if necessary. Zwick also noted that he could not find the story poles until he was actually on the site. Zwick also noted that the color should be darker and that there was no red tile roof samples on the materials board. Zwick said that he would like to the next materials board to include all the materials. Zwick also asked about the drainage plan and stated that ILS Associates and Stetson Engineers sited additional best management practices.

Wight said that a condition can be added about best management practices.

Zwick also mentioned that copper sulfate gutters should not be allowed and asked the applicant to consider changing the material.

M/s Zwick/Overberger and passed (6-0) with direction to the applicant that project will follow recommendations of ILS Associates in the report dated September 12, 2007 and Stetson's peer review of October 1, 2007, lightness and darkness of color and tile roof sample color be a part of...and that copper gutters are changed to another material, construction hours are Bald Hill, recommend that Fire Department work with applicant, change Condition 17 so the deed restrictions are 3, 9, 14, Condition 3 to say "proposed" instead of "approved" colors for stucco and Condition 1 specify that architectural plans are those received on June 7, 2007.

Applicant was advised of the 10-day appeal period to the Town Council.

4. **U-0718/DR-0733/V-0734 – Moshe and Cindy Jacob, 939 San Anselmo Avenue, APN 007-114-05**, Use Permit for the demolition of an existing 1,165 square-foot single family dwelling; Flatland Design Review to construct a ±1,341 square-foot second story in conjunction with a new ±2,322 square-foot single family dwelling; and Setback Variance to construct a covered porch within 15 feet of the front property line, on property located in the R-1 zoning district.

Building and Planning Director Lisa Wight presented the staff report and noted that staff can support the project.

Commissioner Sisich asked who determines that a shadow study is unreasonable and Wight responded that the Commission does.

Commissioner Overberger asked if when a shadow study is requested, is it possible to reflect the trees on the property on the same time as the shadow. Overberger also stated that the shadow study doesn't represent what light is.

Commissioner Zwick noted that it is really difficult to survey the top of the trees when completing shadow study.

Applicant Moshe Jacob noted that complied with everything requested by the Commission

Tom Levine, Sunnyside Avenue, said that he studied solar energy and solar design and that you can go on the internet and plug in latitude to figure out how far shadow will be cast.

Harris asked if the way he described the shadow study is standard operating procedure in the industry and Levine answered that he didn't know.

Zwick noted that the belt course chosen is most likely for a stucco building.

Sisich noted that more effort could be made on the house to reduce shadowing.

M/s Zwick/Overberger and passed (5-1 Sisich) to move the staff report with direction to the applicant to review form trim with staff.

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Applicant was advised of the 10-day appeal period to the Town Council.

5. **V-0727 – Susan Hoy, 90 Melville Avenue, APN 007-263-31** Setback and Parking Variance to construct a 398+ square foot garage with a 398+ square foot studio on top of the garage within 4' of the north side yard property line and 9'-6" of the rear property line (Code: 8' and 20'); and a Lot Coverage Variance to allow the proposed two story structure on property with an existing lot coverage of 39.8% (Code maximum: 35%), located in the R-1 zoning district. (staff person: Chambers)

Barbara Chambers presented the staff report and noted that she received a telephone call from Mary Glass with concerns about the proximity of the garage and also stated that she is unable to support the project for lot coverage and setback variances.

Commissioner Sisich said he noticed that no kitchen has been proposed for the project and asked if deed restrictions would be imposed should the project be approved.

Chambers responded that having no kitchen could be a condition of approval, if the project is approved.

Chair Krebs asked for clarification as to why the project is receiving a flatland review versus a hillside review and Chambers noted that the project is less than 150 feet.

Krebs also asked if the project being less than 400 square feet is the reason there is no Design Review required and Chambers responded yes. Chambers also stated that the Design Review in flatlands is strictly the second floor.

Krebs then asked if the story poles were correct and Chambers noted that the original application came in with an 8 foot side yard setback and 15 foot rear yard setback and that the story poles have been modified to reflect the current application.

Architect Jeff Kroot noted that the story poles are actually a little bigger than the proposed structure. Kroot also noted that the applicant is affected by noise from the use of the swimming pool at 115 Sunnyside Avenue and that the proposed location will mitigate the noise issue. Kroot also mentioned that he received an opposition letter from next-door neighbor Thelma.

Applicant Susan Hoy stated that she has two grown children and a store in San Anselmo. Applicant also noted that her property has been flooded twice in San Anselmo and that she needs room for projects. Applicant also noted that she can't believe there is opposition to the studio. Applicant noted she will not have a home business in the studio; it will purely be used for more space. Applicant also said that she is surprised at the opposition from her next-door neighbor as Thelma stated that it was ok for her to build the studio. Applicant also noted that she has a beautiful garden that she does not want to lose and that she planted a large tree for privacy. Finally the applicant noted that she is an asset to the community and thinks she should be able to build the studio.

Krebs asked the applicant if she met with neighbors before submitting her application and Applicant stated that she did not, as it never occurred to her that her neighbors would be opposed as she looks right into Tom Levine's house.

Sara Glass, stated that her mother Mary is concerned with the placement of the garage, as her mother has a small garden and the windows of the structure would look directly into her yard. Glass also stated that her mother is concerned that the windows of the structure would look directly onto her yard. Finally, Glass noted that her mother is concerned that no water studies have been prepared and about underground springs and water running down the hillside.

Mary Glass asked for an 8-foot setback if the project is approved. Glass also noted that there will be a lot of impact on her property.

Tom Levine, Sunnyside Avenue, asked about circulation and a water study and if the alley is easement or right of way. Levine also stated he has water springs coming out of his grounds and asked the Commission to continue the application until studies have

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been prepared. Levine also noted that a lot of the sound problems mentioned by the applicant are a reflection from hard surfaces. Levine also noted that the structure would result in a loss of privacy for his family.

Wight responded that a water study is under the purview of the Public Works Director.

Kroot responded that little bath windows are included in the proposed project and that the project would impose very minimal shading if at all.

Applicant stated that her garden is really important to her and also stated that the garage should be built in its current location and moving it into her garden does not make sense.

Commissioner Zwick noted that it is a small but complicated project.

Commissioner Sisich asked if there would be enough parking space for one car if the structure were to be moved and Kroot responded that the additional space would be lost.

Schinner stated that he is not sure how building the garage would exacerbate the current water situation and is not inclined to be sympathetic to additional runoff issues Levine mentioned as Levine has a pool on his property that in turn exacerbates the runoff situation. Schinner further stated that he doesn't see how building a two-story structure would be a barrier to noise. Schinner also said that he doesn't see preservation of the garden as a reason for meeting the hardship requirement for variance and that it seems like the applicant is asking for more space. Finally, Schinner noted that he supports the staff report and can't make the findings for the application.

Commissioner Harris noted that he echoed Schinner's comments and that while he is sympathetic to the applicant's desire to increase space and to the neighbor's concerns, he cannot make the findings for the variances.

Sisich stated that he was not in support of granting the variances, however had no problem with the structure. Sisich also noted that he thinks everyone is entitled to add to their house and that he doesn't think it's fair to deprive the applicant of increasing space. Sisich also said that he can't support the variances for the setbacks, but would support if the structure were within the setbacks. Sisich also stated that privacy issues are mitigated all the time and in terms of water issues and the alley noted that he would like to see a plan. Finally Sisich stated that he doesn't think the net increase of water will be a lot, but that it would be nice if the applicant took measures to show what the increase in water would actually be.

Commissioner Overberger asked if no variance were involved if staff would recommend approval of the application and Chambers noted yes. Chambers also stated that the applicant has the choice to get under lot coverage, move completely back to remove variance or make a slightly smaller second story, however at 40% lot coverage the proposal cannot be supported.

Krebs stated that he cannot make the findings for the setback variance and that there are ways to reduce the size of the studios.

Kroot asked for a continuance until the November 5, 2007 meeting.

Schinner stated that he would be inclined to grant the variance on lot coverage, but not on the requested setback.

M/s Harris/Schinner and passed (6-0) to continue the item to November 5, 2007 for re-design review.

Applicant was advised of the 10-day appeal period to the Town Council.

E. WORKSHOP

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Wight announced Downtown Workshop #2 scheduled for Tuesday, October 16, 2007 at Wade Thomas School at 7pm. Wight stated that Workshop#2 will have a design charrette and 8 architects and designers to assist in the small group exercises.

Wight announced that FAR information would be brought before the Town Council on Tuesday, October 23, 2007.

F. ITEMS FROM PLANNING COMMISSION

G. ITEMS FROM STAFF

ADJOURNMENT

The meeting was adjourned at 11:15pm to the next meeting of Monday, November 5, 2007.

Respectfully submitted,

La Shaun Williams