

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF OCTOBER 5, 2009**

CALL TO ORDER

Commissioners' present; Brown, Harris, Krebs, Schinner, Sisich
Commissioners' absent: Overberger, Zwick

OPEN TIME FOR PUBLIC EXPRESSION

No one spoke during this time.

CONTINUED ITEMS

1. **DR-0904/V-0903–Alice Tompkins, 24 Cypress Road, APN 006-113-14**, Hillside Design Review and Setback Variance to construct a one car, ±239 square foot garage within 2'-6" of the north side property line and 6" of the rear property line (Code: 8' and 20' respectively); and for the two uncovered parking spaces to be substandard in length between 16'-4" and 18'-3" (Code: 19'), located within the R-1 zoning district above 150' msl elevation. **CONTINUED TO 10/19/09** (Staff: Boyle)

PUBLIC HEARING ITEMS

CONSENT AGENDA

1. **Minutes – September 21, 2009**

M/s Schinner/Krebs and unanimously passed to approve the minutes with minor, non-substantive changes.

REGULAR AGENDA

2. **UP-0910 / DR-9011 – Michael McKee, 255 San Francisco Boulevard, APN 005-204-37**, Use Permit to demolish a 748 square foot single family home and Design Review for a new 1,500 square foot single family home which meets all Zoning Ordinance requirements located in the R-1 Zoning District. (Staff: Boyle)

Commissioner Harris recused himself and left the Chamber because he lives within 300 feet of the project.

Senior Planner Boyle presented the staff report, noting that staff is able to support the project as proposed with conditions that are outlined in the report.

In response to Sisich, Boyle stated there were no neighbors opposed to the project.

Michael McKee, applicant, explained that the house is in a state of disrepair and must be demolished. If it is possible, he would like the roof ridge raised an additional three feet. Boyle responded that the project would require re-noticing and the story poles re-adjusted.

In response to Brown, McKee said he will not do anything at this time with the garage although he will in the future.

In response to Krebs, McKee said he has met some of the neighbors and everyone seems happy with the scope of the project.

Boyle said the Commission could hear the amendment with the three foot roof ridge modification at the next meeting, which would give adequate time to re-notice the change if the applicant wants. McKee said he would like a decision made tonight on the Use Permit and would agree to continue the Design Review until the next meeting.

Schinner said this is a modest project and was able to support the application as proposed.

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Krebs noted that although he is in support of the current project before the Commission, there is no guarantee that the three foot height could be approved.

M/s Schinner/Krebs, and passed (4-0), to approve the Use Permit and continuance of the Design Review to the meeting of October 19, 2009 in order for the applicant to revise the roof ridge. The audience was advised of the ten day appeal period.

Harris re-entered the Chamber and the dais.

3. **DR-0910 Bob Wisner, 80 West Hillside Avenue, APN 006-172-10,** Hillside Design Review for a new ±384 square foot second story room over the existing garage and a new 624 square foot garage with a ± 672 square foot room and deck above. (Staff: Boyle)

Senior Planner Boyle presented the staff report, noting that staff is able to support the project as proposed with conditions that are set forth in the report.

Sisich asked about the story pole locations and questioned what the policy was for erecting story poles. Boyle explained there were poles for the garage but not for the second story because the second story addition was lower than the existing roof. Sisich noted that the story pole was placed at the furthest point of the existing garage and does not reflect the addition. Sisich further stated he has no problem with the project but wants consistency. Boyle said Sisich was correct, the poles were not placed in the location of the new work.

Bob Wisner, applicant, stated the poles were placed in the most visible location.

Krebs asked if there were comments from the neighbors. Wisner said there does not seem to be opposition. There is a house on Prospect and another house below that he was not able to get in touch with but he was sure they received the legal notice.

In response to Krebs, Boyle said he did try to find the applicant's story poles as viewed from Sequoia Avenue and was not able to see them. He was only just able to see the tip of the story poles from the Hub.

M/s Sisich/Harris, and unanimously passed (5-0) to approve the staff report. The audience was advised of the ten day appeal period.

4. **UP- 0911 Michael Weiss, 125-129 Scenic Avenue, APN 007-063-37 and 38,** Request for a Use Permit per *Section 10-6.207-Exceptions to Standards* to allow the owner of record to rent the principle residence for a period of two years (Staff: Boyle).

Senior Planner Boyle presented the staff report, noting that staff was able to support the project with conditions as set forth in the staff report.

Sisich said he was recently looking at the Second Unit Ordinance and there is an exemption for homeowners living on a portion of Sir Francis Drake. Planning and Building Director added that the residence requirement was originally adopted because at the time it was felt it might better ensure that the property owner would maintain the second unit in a single family neighborhood and not change that neighborhood's character. Over the years there have been two exceptions granted. Perhaps it is time to review this portion of the ordinance.

Deputy Town Attorney Hurd said that there has been recent relaxation in many jurisdictions to remove the owner occupancy to meet the ABAG requirements. Hurd said it may be discussed in the Housing Element. Wight concurred.

Harris asked what action would take place in two years. Boyle said there should be a note placed in the file that indicates the new owner will be living on the premises.

Schinner commented the Use Permit would be invalid at the end of two years.

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Krebs said there should be a burden placed on the owner that the Use Permit has expired in two years, or they comply with the Use Permit of owner occupancy. Boyle said the Use Permit runs with the land, not with the owner.

Krebs said he has no problem with the project but feels there should be clarification.

Hurd said it might be curious on how you could make the finding for this project, but not for future applicants. Krebs said it could be supported because the current owner would be renting on the property. He noted that Condition Number 2 is confusing with this particular application.

Michael Weiss, owner and applicant, said this is a complicated situation but he has no problem making the Use Permit null and void after two years if the future buyer does not buy the property. He has a letter of support from surrounding neighbors as well as the current tenant.

Mary Porter, future buyer, explained that the three month extension was to allow the current tenant in the second unit to find new housing.

Sisich said he is in support of the project.

Schinner can support with Krebs' additional wording.

Harris also said he supports the project with the amendment by Krebs and wanted to commend the applicant for bringing this to the Town.

M/s Krebs/Harris, and unanimously passed (5-0) to approve staff report with the following amendments: Strike Condition No. 2 in the staff report; add the following condition: The Use Permit is effective following the close of escrow with the outside date of 30 months. The Use Permit would expire (be terminated) in the event that this does not close escrow within six months. The issuance of the CUP is conditioned upon closure within six months as referenced with materials listed in the staff report. The buyer or then owner will give written notice to the Town that they have occupied the property in compliance with the expiration of the Use Permit.

The audience was advised of the ten day appeal period.

E. ITEMS FROM PLANNING COMMISSION

- a) Discussion and possible action regarding the Planning Commission's position on Measure E – Flatland Floor Area Ratio Ordinance.

Harris stated that at the last meeting Krebs shared an e-mail that he received from the Town Attorney regarding endorsement. He would like to discuss with his fellow Commissioners the possibility of taking action to endorse Measure E.

There was no one in the audience that spoke for or against the item.

Sisich said that two Commissioners that are in support of Measure E are not present tonight and he will not be present at the next meeting. He suggests continuing it until the next meeting but he understands Overberger will not be present either at the next meeting and he is not sure what the vote will be.

Schinner said both Overberger and Zwick stated at the last meeting they wanted the vote to take place early.

Krebs said sometimes resolutions have more strength if all, or most, are in support. There may be some minor imperfections in the ordinance although it is important to have it in place with changes that could take place later.

Brown felt this specific ordinance is stricter than the building code. He does believe there should be FAR, but with some changes. He does not however want another two year debate on this.

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Harris said this is a different ordinance from what the Commission voted on two plus years ago, and he was not in support of it then because he wanted a stricter FAR. However, the Town is decades behind other jurisdictions and he is in support of getting something passed to have some basic control in place. If we can get the basic premise on the books we can then make changes. He felt the basic concept is good and we shouldn't wait any longer.

Schinner voted in support of the ordinance and he still does support it, noting that the process was very fair. His only reservation is coming out with an endorsement as a Planning Commissioner. There is strong support on each side and he does not feel he should be brought into the political process.

In response to a question about procedure, Hurd said if there is no motion made, the item will die, or the Commission can make a motion and say aye, nay, or abstain.

Krebs reiterated that if there is a split message sent to the public, he does not want to give negative feelings. He would like to see the FAR passed and try to work with it. If it is defeated we will be faced with the same problems we have had in the past.

Sisich said he would not like to have a vote unless the vote is unanimous.

Harris said we shouldn't overstate the importance of the resolution. He noted that he respects what Schinner has said but we, as Commissioners, have seen the impacts of not having an FAR ordinance and the impact an FAR would have for the community. He urged Schinner to endorse the resolution.

Schinner questioned how significant is the endorsement versus the Planning Commission having approved the ordinance.

Brown said he could approve this as long as it is modified at some time in the future. It is very important to reduce the size of homes in the flatland.

Harris said it is correct that the Commission has taken an official vote. It makes sense not putting it to a vote tonight if it is not unanimous.

Schinner said there would probably be fliers that include the resolution with who on the Commission endorsed the Measure. He felt it is really only an endorsement on a political measure.

Harris said there was a 5-0 vote from the Council to support the FAR so this is a little different than a typical endorsement.

In response to Sisich, Hurd said there is no draft resolution to be voted on. However, if you want to have written memorialization, staff can do that.

Harris said he does not need a written resolution. He only brought this up because he wanted to use what ever clout the Planning Commission could have. If that does not happen, he will withdraw his motion.

Krebs agreed, stating it should be withdrawn if it is a split vote. In addition, there are two Commissioners who are not present that are clearly in support of it.

Brown commented that he supports a reduction in floor area.

Schinner said he agrees this subject is unique and he is persuaded to endorse the resolution, including modifications to the ordinance.

Brown would also endorse this if the ordinance could be reviewed further once it is adopted, if it is.

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Sisich, Harris and Krebs stated they would be open to discussing minor modifications once the ordinance was passed by the voters.

M/s Harris/Sisich, and unanimously passed (5-0), that the Planning Commission endorses passage of the ordinance unanimously approved by the Town Council and up for a vote as Measure E this November.

ITEMS FROM STAFF

None.

ADJOURN TO THE NEXT REGULAR MEETING OF OCTOBER 19, 2009

The meeting was adjourned at 8:15 pm.

Barbara Chambers