

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF MARCH 1, 2010**

CALL TO ORDER

Commissioners present: Brown, Harris, Krebs, Overberger, Schinner, Sisich, Zwick
Commissioners absent: None

OPEN TIME FOR PUBLIC EXPRESSION

No one spoke during this time.

CONTINUED ITEMS

None

PUBLIC HEARING ITEMS

CONSENT AGENDA

1. **Minutes of February 1, 2010**
2. **GR-1001 Dixon Long 123 Sturdivant Ave., APN 006-231-32**, Grading permit application related to fill and excavation for the house, landscaping and new driveway for the garage addition. Approximately 136 cubic yards of soil will be moved consisting of 84 cubic yards of soil will be excavated, 52 cubic yards of fill, and 32 cubic yards to exported. (Staff person: Condry)
3. **UP-1004, Hang Li, 830 Sir Francis Drake Blvd., APN 006-061-17, 21**, Use Permit to operate a fast food restaurant with a drive through pickup window in the existing ±1,000 square foot building in the C-3 Zoning District. (Staff person: Boyle).
4. **UP-1005, Dennis Allan Odgers, 122 Sycamore Ave., APN 006-083-16**, Use Permit to demolish an existing single family house that has been determined to be a public nuisance by the Town Council. (Staff person: Boyle).
5. **UP-1006, Rachel Sandidge-Wong, 556 San Anselmo Ave., APN 006-102-15**, Use permit for on-site sale of beer and wine. (Staff person: Boyle)

Sisich asked to remove Item 3 from Consent for further discussion.

Zwick asked to remove Item 2 from Consent for further discussion.

Krebs advised that he would recuse himself from Item 2 because he has had a previous business relationship with the applicant.

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M/s Krebs/Overberger, to approve Consent Item 1.

Ayes: Brown, Krebs, Overberger, Sisich, Zwick

Abstain: Harris, Schinner

Motion carried.

M/s Krebs/Overberger, to approve Consent Items 4 and 5.

All Ayes(7-0).

The audience was advised of the ten day appeal period to the Town Council.

REGULAR AGENDA

123 Sturdivant (Taken from Consent)

Krebs to recuse himself due to a past business relationship with the applicant.

Harris asked about the potential limit of excavation of materials off site, noting that 84 cubic yards is a fair amount. He questioned why this has come up now on this project when the project had come before the Commission on two previous occasions.

Steve Myrter, Public Works Director, explained that only 32 cubic yards will be hauled off-site. The grading is mostly for the car deck so it can match up with the existing grade of the driveway and the adjacent garage.

Harris asked why this was not brought forward at the time there was a public hearing on the car deck, noting that this appears to be piecemeal. Senior Planner Boyle responded that the first project was a remodel of the house and the existing garage that did not include grading. The next project was for the parking deck that was approved to be in the location of the previous second unit. The architectural drawings did not include grading. However, when the construction drawings were submitted, the Public Works Department noticed the extent of the grading requires Planning Commission approval..

Zwick asked if the Commission could deny the project for the car deck based on the amount of grading required. He also asked if there are alternatives that would not require such an extent of grading. Myrter responded that there are alternatives that would not require as much cut and fill. He noted that the recent ordinance seeks minimizing cut and fill on a site. Deputy Town Attorney Hurd stated that the ordinance discusses cut and fill, not necessarily volumes of off-haul or method of off-haul. He went on to further explain the ordinance.

In response to Overberger, Myrter said there are no other alternatives proposed by the applicant. He said they could be asked to keep the soil on site and put it under the car deck, rather than move it off site.

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Brown asked if this was a fair proposal for off-site removal of soil. Myrter said keeping the soil on site can be done although the excavation for the driveway and the car deck is reasonable. Again, rather than take the soil off-site, it could be retained on-site.

Brown asked if there is a particular location addressed in the ordinance. Hurd said there was not. However, if the Commission believes the removal is more than is necessary, they can make it a condition.

Harris thought the General Plan and the ordinance address cut and fill and exportation of excavated materials. Hurd discussed the Grading Permit Ordinance and the purpose of the ordinance.

Overberger thought the intent of the ordinance was based on the excavation of a site, not necessarily the removal of soil. Hurd concurred. Myrter added that this project is moving a lot of earth but the cuts are very shallow.

Open public hearing.

Tom Hendricks, Architect representing the applicants, said the project was originally a modest remodel and became a major remodel. The project was designed to make the car deck more usable, which equates to most of the excavation. He provided details of the areas of excavation, which also includes the areas of landscaping.

Harris asked about putting fill under the parking deck and minimizing exportation. Hendricks said they are proposing to place the mechanical equipment and the meter under the car deck.

Zwick asked about adding a pad and raising the equipment. Also, why can't additional fill be placed in the landscape areas. Hendricks said there may be structural constraints and adding more fill would change the grade.

Overberger asked Hendricks to consider alternatives to keep the fill on site.

Close public hearing.

Zwick said the amount of soil to be hauled off-site is not that much but if it is not required for the project, it should be avoided. He would like to see the applicant doing something environmentally sensitive.

Sisich had nothing further to add.

Schinner and Harris agreed with Zwick.

Overberger would like to see them come back with less off-site soil removal.

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Brown would like to see some recommendations in the future so there will be one review of a project that includes the grading permit as well as the planning project at one time, rather than separate applications, so the Commission can get the overall picture.

M/s Zwick/Overberger, to continue the application to the next meeting so the applicant can come back with the optional bump for the driveway car deck and that the major concern is about off haul.

Ayes: Harris, Overberger, Schinner, Sisich, Zwick, Brown
Recused: Krebs

Motion carried.

Krebs returned to the dais.

820 Sir Francis Drake Boulevard. (Taken from Consent)

Sisich said his one concern is the exterior appearance of the building; he realizes that there is no Design Review required, but he would like to encourage the applicant to make some improvements to the exterior of the building. He noted that they are not asking for a sign permit but when they do, will it require sign review as well as design review?

Boyle said sign review can be handled at staff level if it does not exceed the limits of the ordinance. Boyle read the Sign Ordinance requirements.

Open public hearing.

No one from the public spoke on the item.

Close public hearing.

M/s Sisich/Harris, and unanimously passed (7-0) to approve the staff report. The audience was advised of the ten day appeal period to the Town Council.

- 6. UP-1002/DR-1003, Terry and Barbara Dill, 520 Redhill Avenue, APN 006-091-09, Use Permit and Design Review for conversion of a commercial space into a single family residence in a Commercial Zoning District (C-3). (Staff person: Boyle)**

Boyle presented the staff report.

Harris said he thought there was an across the board maximum limit of 5,000 square feet for a residence, thereby requiring a variance for this project because it exceeds 5,000 square feet. Hurd said the cap is on construction of new homes or remodels, not necessarily conversions of existing space. Schinner asked if the height would therefore be grandfathered in as well.

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Planning and Building Director Henderson noted that the standards for the building are the standards required by the zoning district, in this case, a commercial zone. The Use Permit is for residential use in the commercial zone.

Overberger asked if it is a good idea to allow conversion of commercial into residential. Hurd stated that there is no work-live ordinance at this time but that may be addressed at a future date.

Open public hearing.

Tom Horton, Tam View Knolls, stated that the proposed project listed as 520 Red Hill is currently 506 Red Hill and the detached single family residence in the rear is 520 Red Hill. He has no problem with the proposal; he would just like the addresses corrected on the architectural documents.

Henderson said that the project was legally noticed because the parcel number is correct. Boyle added that a condition of approval can be added requiring that the plans submitted for building permit have the correct addresses.

Close public hearing.

Schinner asked if both the commercial and residential are on the same parcel. Boyle affirmed, stating there will be two residences on one lot if the Use Permit is approved.

Schinner said that he generally does not like converting commercial to residential or multi-unit buildings in the area but there does not seem to be any restriction on the owner so he can support this.

Overberger supports this, especially since there is no ability to restrict it.

Sisich can support the project, noting that the building has been vacant for several years.

Zwick and Krebs support the project.

Brown also supports the project but is somewhat concerned about vehicles exiting the property onto Red Hill. This would also be a concern with commercial.

M/s Overberger/ Zwick, and unanimously passed (7-0), to support the staff report.

The audience was advised of the ten day appeal period to the Town Council.

7. V-1003/DR-1004, Ted and Debbie Danigelis, 55 Elm Avenue, APN 007-052-41, Side Yard Setback Variance to relocate an existing single family residence 12 feet back from the front property line and between 3 feet 3 inches to 4 foot 4 inches from the eastern side property line and Flatland Design Review for a 212 square foot main level addition and a 610 square foot basement addition (Staff person: Boyle).

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Boyle presented the staff report, noting that staff is not able to make the findings to support the project as proposed.

Schinner asked for clarification on relocating the dwelling. Boyle said they are going to actually pick the house up and move it back. This is due to the remodel of the house next door neighbor at 57 Elm Avenue.

Brown asked why the finding could not be made if the lot was so small that it would not afford them what other properties could do in the neighborhood. Boyle said they would be able to meet the setbacks if they moved the house.

Zwick asked if there is a survey on the property. Boyle did not believe there is a survey.

Brown asked why the project next door did not come before the Commission, or is there a code violation on the project. Boyle said the project at 57 Elm Avenue meets the Code requirements in that the height was raised 24 inches, which is permitted.

Open public hearing.

Ted and Debbie Danigelis, applicants, said their daylight has been completely blocked out by the neighboring dwelling. The remodeling next door was major, including a height increase of 24 inches along the side property line. They are trying to remedy the light problem with this project. The lot width is very narrow and the house is narrow. They also want to fill in under the cantilevered area.

In response to Sisich, Boyle read the section of the ordinance that allows a dwelling to be raised up to a maximum of 24 inches.

Harris asked why the dwelling can't be moved further away from the side setback. Danigelis said it would be an additional cost and it would also reduce the driveway width.

Harris asked how the air quality has changed. Ms. Danigelis said they have no view, they now see a wall next door.

In response to Zwick, Hurd stated that the existing non-conforming footprint has been grandfathered in but any change to the footprint would require meeting the required setbacks or the approval of a variance.

Cornelius Keene, 51 Elm Avenue, is concerned about the house being moved backwards for the same reason the applicants are concerned about their neighbor to the right. Moving the dwelling would be removing sunlight and his view to the east from his master bedroom. The house will be moved 26 feet backwards, which will be detrimental to his property. He noted that the existing house is taller than the addition, which means a portion of the existing house, when moved back, will be very tall and will restrict his view and sunlight.

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Sisich asked if there would still be an issue if the house was slid back without the addition. Keene affirmed.

Ms. Danigelis said their house would be over 20 feet away from 51 Elm's bedroom window. There is also a large tree that provides privacy for both properties. She noted that because the lot slopes down, the existing dwelling will be somewhat lowered. Mr. Danigelis added that it will not appear taller from the street due to the slight slope of the lot. Also the existing exterior stairs in the rear will be removed and the addition will not extend past the dwelling at 51 Elm Avenue.

Keene asked if there will be a decision made tonight, or what is the next step. He said the view, as well as the light, is a major issue for him and his master bedroom.

Close public hearing.

Sisich said historically we have used shape, size and topography as a special finding. He noted that there are no other lots that are 37 feet wide, which is very substandard. The addition is really one story and they have taken the time to make as little impact as possible to the neighbor at 51. There is no view ordinance. He believes a finding can be made based on the small size of the lot width. He does not feel it is an unreasonable impediment of light, air or privacy to the neighbor.

Krebs said Sisich makes a good point based on the narrow width of the lot. As far as the impact of the changes to the neighbor, he is sympathetic but the view is not a protected right under the zoning codes. The shadow study shows some impairment but does not show substantial impairment, noting that there is no impairment at noon. Thus, the impairment is not unreasonable.

Harris said the view is not from a prominent view room. He would like the applicant to be more creative. He would like to see the applicants take the opportunity to push the house further back and use the front of the lot for parking, thus creating a greater separation between the applicant's property and the neighboring property at 51 Elm Avenue. If that is not feasible, he would consider a setback variance. The house and addition will be a very generous size. He noted that the house and addition would exceed the FAR if it weren't grandfathered in prior to the new FAR Ordinance. He would like to see a little more thought to alternatives for parking so the house can be relocated away from the side setbacks.

Schinner said he can make the findings for the side yard variance due to the narrowness of the width of the lot. Regarding design review, there is no view easement that will impact the neighbor's pool and the shade study seems to be innocuous to 51 Elm Avenue and this design will mitigate the impact on that residence. It is modest in scope, but the majority of it is to the basement. Leaving the driveway the way it is makes the most sense for this lot. The project will not unreasonably impact air or light to neighboring properties.

Overberger said houses are close together throughout the town. Moving the house to the middle of the lot would probably have more of an impact to 51 Elm Avenue. She is able to make the findings for the variance due to the narrowness of the lot. Also, plantings can help with privacy.

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Brown can also support the project. He believes the current parking is the best solution. Removing the exterior stairway to the yard will provide more privacy for the neighbor.

Zwick is comfortable with the project.

Harris noted that cost is not a finding. The house is currently non-conforming and allowing the house to be moved would be an exacerbation of the non-conformity.

M/s Sisich/Overberger, to approve the application finding that the 37 foot width is substandard in the neighborhood and does deprive the owner of the right allowed others have and the granting of the variance will not be a grant of special privileges and the addition will have no adverse impact on the neighborhood; and with the Design Review findings specified in the Staff Report and subject to the following conditions of approval:

1. Planning approval is based on the plans and materials date stamped received by the San Anselmo Planning Department on February 25, 2010.

2. The property owner shall indemnify and hold harmless the Town of san Anselmo and its officers and/or employees in the event of any legal action related to or arising from the granting of this entitlement and shall cooperate with the Town in the defense of any such action, and shall indemnify the Town for any award of damages and/or attorneys' fees and associated costs that may result.

3. If the project is not commenced within two years from the date of the final action, the planning action becomes null and void. However, this discretionary action may be renewed 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.

4. The conditions of approval shall be placed on the first page of the building permit drawings.

Ayes: Brown, Krebs, Overberger, Schinner, Sisich, Zwick
Noes: Harris

Motion carried.

The audience was advised of the ten day appeal period to the Town Council.

F. ITEMS FROM PLANNING COMMISSION

None

F. ITEMS FROM STAFF

- 1) Discussion of mandatory Green Building Ordinance. (Staff person: Boyle)

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Boyle presented an overview.

Overberger said cost is always a factor. Zwick said he wanted to add the cost for consultants. There should be an assessment made to see if it is financially feasible. He noted that the checklist seems to be complicated.

Boyle said the cost outlined is the cost provided by San Rafael. This is cost for a GreenPoint Rater to work on a single family from the beginning to the end of the project. There is an additional cost to have the project certified by Build It Green.

Overberger said she would like to know the value of each item and what the point value is for each. Zwick said he believes the checklist does that now. He would like to promote that staff be well trained to explain it to the public.

Zwick questioned some of the items on the checklist for remodels.

Overberger noted that because remodels are more prevalent than new homes, we should not focus on new homes. She does not really think a consultant is necessary; it is only necessary for someone to help in certification.

Boyle said a green points rater is required if the remodel is 500 square feet or more or \$100,000 or more.

Zwick said in Novato there is a simpler version of the checklist but it is placed on the building permit plans. That is then reviewed during the building permit process. Boyle said the County will start using an ordinance model after the BERST ordinance in the near future. He added that the majority of towns require GreenPoint Raters because there is not adequate staff.

Overberger said there is a real barrier to encourage people to go green. Boyle said that staff will review the checklist for smaller projects but cannot do it for larger projects.

Zwick wondered why we couldn't have adequate staff to do this. The whole process is the same but the implementation is up to each municipality. Henderson said the Marin Builders Association has worked with the cities and the County in an attempt to create consistency. Zwick clarified that it was his understanding that the Builders Association wanted consistency in the checklist but the value of each item could be up to each jurisdiction.

Overberger said some things such as exemptions might be considered.

In response to Brown, Boyle said foundation work would be exempt because it is not conditioned space.

Krebs asked if the schedule proposed by staff is workable or too aggressive.

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Zwick suggest starting with subcategory A. He wants all the contractors to support them and wants the threshold to remain. What would the cost factor be to have it in-house as part of the Town process rather than hire a consultant?

Brown said the State of California will be submitting a new and updated energy code every few years.

Henderson said being the rater is very difficult and it would be difficult at this time, to hire additional staff due to current fiscal constraints.

Kathryn Gant Bradley, 24 Durham Road, encourages the Commission to have a workshop to educate the public.

Henderson said that a mailing list has been compiled that includes over 200 people.

Zwick would like staff to discuss the feasibility to have it in house and starting from A, not AA.

Overberger wants staff to prepare a draft ordinance, revised checklist, and in house cost breakdown, and the process on how it will be implemented, and what is excluded, and remodel information only.

Harris would like a list of the items that have been customized by other jurisdictions.

In response to Krebs's question about incentives, Boyle stated he does not believe the Town is in the position to provide reduced fees for green project and that it is very hard to provide priority processing for green projects because there are so many factors that determine when a project is reviewed and ultimately approved.

The consensus of the Commission was to place this item at the beginning of the agenda for the meeting of March 15, 2010.

2) Miscellaneous Items

Henderson stated April 12 is the joint Town Council and Planning Commission workshop to discuss the Housing Element.

Henderson advised that 28 Durham Road has withdrawn their application for a side yard variance and have resubmitted a request for Administrative Design Review.

ADJOURN TO THE MEETING OF MARCH 15, 2010

The meeting was adjourned at 10:25 p.m.
BARBARA CHAMBERS