

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF JULY 12, 2010**

CALL TO ORDER

Commissioner Brown called the meeting to order at 7:03 p.m.

Commissioners Present: Brown, Harris, Krebs, Sisich, Zwick
Commissioners Absent: Schinner

Commissioner Overberger joined the meeting in progress.

OPEN TIME FOR PUBLIC EXPRESSION

No one spoke.

PLANNING AND BUILDING DIRECTOR'S REPORT

Interim Planning Director Diane Henderson reminded the Commissioners, staff, and any members of the public who wish to speak to turn on their microphones beforehand. Henderson also noted that there will be no meeting on September 6, 2010, which is Labor Day.

Town Attorney Riley Hurd updated the Commission on the issue of counting a quorum when recusals are required, advising that although both Robert's and Rosenberg's Rules of Order direct the quorum to be counted before recusals, the FPPC's guideline directs that the quorum be counted after recusals take place, on an item by item basis. Hurd suggested that if a Commissioner is aware that he or she is going to be recused, it would be best to advise staff before the meeting agenda is prepared so that items from which the Commissioner must be recused may be scheduled conveniently.

PUBLIC HEARING ITEMS

CONSENT AGENDA

6. Minutes - June 21, 2010

M/s Harris/Sisich, and passed, to approve the minutes. (Ayes: 4-0 Abstain: Krebs, Zwick)

REGULAR AGENDA

- 2. PDPE-1002/FAE-1005/DR-1011, Neal Schon, 53 Tomahawk Drive, APN 177-220-66, Request the Planning Commission review the attached plans and materials for an 880 square foot detached music studio at 53 Tomahawk Drive and: 1) provide a recommendation to the Town Council pursuant to Resolution No. 3038 to construct the proposed project outside the approved building envelope; 2) determine if the findings can be made pursuant to Section 10-3.14 Table 4E (Note #4) to exceed the maximum adjusted floor area by 179 square feet and; 3) determine if the required Design Review Findings pursuant to the R1-H Zoning District can be made.(Staff: Boyle)**

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF JULY 12, 2010**

Senior Planner Phil Boyle presented the staff report, indicating that staff was unable to make any of the required findings with regard to Resolution No. 3038 (1 above); further, staff was unable to make the findings pursuant to Table 4-E (2 above), nor were they able to make the required Design Review Findings (3 above).

Boyle observed that the property is part of a precise development plan and is designated as a ridge zone; it has a public access easement at the front of the property leading to a trail, and it has a prescribed building envelope as opposed to standard setbacks. There is also an open space easement behind the property delineated by an existing metal fence.

The project proposes a detached, single story, 880 square foot music studio designed for the personal use of the property owner. The proposed studio contains a music room, control room, bathroom, and storage. Maximum height for this structure is 24 feet and the planning code allows 30. The exterior of the building is designed to match the primary residence.

Commissioner Zwick asked if Table 4-E changed last year.

Boyle noted that the table was updated in August of 2009 and did not change with the Flatland FAR discussion.

Sisich asked how the findings were made for the accessory structure approved last July, noting that the building is outside the prescribed building envelope.

Boyle responded that staff was not aware of the specific requirements of Resolution No. 3038 at that time.

Henderson added that it may have been an oversight on the part of those who handled the matter.

Krebs asked about the nature of the previous application and Resolution No. 3038 and asked what the purpose was of the accessory building.

Boyle indicated a small, single vehicle garage on the plans, explaining that a modification to the building envelope had been approved; however, after subsequent review, it was determined that this solution did not reflect the intent of Resolution No. 3038.

Harris asked if the Commission has the authority to change the building envelope.

Hurd replied that the Commission does have the authority to change the building envelope, if an applicant seeks to amend the subdivision map.

Harris asked if the current application makes a request for amendment of the subdivision map.

Hurd indicated that it does not.

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF JULY 12, 2010**

Harris observed that accessory structures are not to be used for the purpose of a home occupation and inquired if this rule is something that needs consideration with regard to the current application.

Boyle replied that the home occupation rule is not an issue in this matter as the applicant is asking to build the studio for his own personal use.

Harris observed that with regard to Resolution No. 3038 and the three required findings, the first two findings refer to "the building" and asked what building is being referred to.

Boyle replied that it appears Resolution No. 3038 came about when the home for Lot 7 was proposed; however, Condition 1-A of Resolution No. 2060 approving the original development implies that "the building" is meant to include main buildings, swimming pools, decks, and accessory structures.

Harris asked if "the building" refers to the primary residence.

Boyle replied that he interprets the phrase as indicating the primary residence and all accessory buildings.

Brown asked what the process is for making changes to the subdivision map.

Boyle responded that the request would come before the Planning Commission for a recommendation, with that recommendation going on to the Town Council.

Brown asked if such a request would necessarily involve the other properties in the subdivision.

Boyle said that he believes it would be an application for one lot, unless several properties came in for review as a group.

Open public hearing.

Attorney Neil Sorensen introduced applicant Neal Schon.

Schon thanked the Commissioners for their help on previous projects. He noted that currently, he must drive to Healdsburg, Berkeley, or San Francisco to work in spaces there. He reminded the Commissioners that his property covers ten and a half acres and that he never realized he may be prohibited from building there. Schon added that he respects the open space and does not want to construct anything that would obstruct views; he is merely trying to create a work zone.

Sorensen stated that the applicant wants to create a well-designed space, suited to the site, in which to create music. He pointed to the report submitted by Engineer Earl Mullins as well as letters written in support of the project by Mr. Schon's neighbors. Sorensen also pointed to a series of proposed findings and their supporting facts, observing that Boyle had been able to make a considerable number of the findings himself.

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF JULY 12, 2010**

With regard to the required finding in the General Plan dealing with the ridge zone, Sorenson noted that all properties on Tomahawk are in the ridge zone and that there is an easement over 92 percent of Mr. Schon's property, resulting in a very small building envelope.

Sorenson presented an exhibit confirming that the applicant has the largest lot in the area, and that the area outside the open space easement amounts to slightly less than an acre. He concluded that the prohibition of building in the ridge zone means that there is no opportunity, short of placing the studio in the front yard, of complying with the requirement to remain out of the ridge zone.

Sorenson believes that the exhibited photo montage contradicts staff's statement that the studio is too visible. He further made the distinction that the property is private, not public open space, with a very small easement over a trail that the public can walk on.

Sorenson noted that if the studio is moved up into the existing building envelope, elevations drawn by the architect indicate that it would be very visible from the fire road and would break the plane of the ridge line, making it visible on both sides of the ridge.

In response to some design issues raised by staff with regard to aesthetic compatibility, Sorenson observed that the studio has been designed to match the home and that the home went through design review in the 1980's.

In conclusion, Sorenson asked the Commissioners to adopt the findings he has suggested and to recommend approval to the Town Council, as he believes the currently proposed location is the most aesthetically pleasing and least visible on the property.

Zwick asked how Sorenson would make the findings with regard to the 5,000 square foot limit.

Sorenson indicated that Table 4-E allows an additional 500 square feet without approval and that the current project proposes 179 square feet in excess of the allowed 500.

Boyle explained that the footnotes for Table 4-E, which address Floor Area Ratio for properties above the 150 mean sea level, states that dwellings built, enlarged, or expanded before 1991 which do not exceed 5000 square feet, may exceed this number by 10% subject to design review approval and the following findings, A, B, C, and D. Boyle addressed the findings in his staff report and was unable to make them.

Krebs observed that if staff could not make the four findings and that even if the first finding is addressed under design review, and the second and third findings can be addressed adequately by the applicant, he is at a loss as to how the fourth finding addressing internal efficiency/space utilization problems, can be made.

Sorenson replied that with regard to space utilization, the existing house is such that the proposed structure cannot be placed within the home because of requirements for ceiling height and room size, which are largely prescribed by acoustical needs.

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF JULY 12, 2010**

Harris asked what alternative locations were considered, indicating that he would like to hear more about why the studio could not be built within the existing home, which is fairly generous in size.

Sorenson replied that placing the studio within the home would result in the loss of two or three bedrooms and noted that because the lot is so generous in size, he does not believe the studio is out of scale.

Harris asked if the open space easement on the property prevents it from being subdivided.

Sorenson affirmed, adding that the easement also prevents the applicant from building a fence there.

Harris asked if conversion or extension of the garage was considered a possibility.

Sorenson replied that it is not big enough and that it is too close to the property line for consideration because of the element of sound.

Overberger believes the studio could be wrapped into the building envelope.

Sorenson replied that the studio could not be placed in the existing residence for the reasons previously stated; further, the studio cannot be added to the house without going outside the building envelope.

Schon replied that he currently has a small studio in one of the small bedrooms and that he wants to build a studio large enough to create film scores and for work on other larger projects. Further, there are a lot of interruptions when working inside the house. Finally, Acoustical Engineer Chips Davis advised Schon that the acoustics will not be adequate if the studio is built as an extension to the home.

Krebs observed that if the studio is designed to be 700 square feet as opposed to 880, the applicant would not be required to ask the Commission to make the difficult findings for the additional square feet. He asked how much the current design exceeds the building envelope.

Sorenson indicated that it is currently completely outside the building envelope.

Zwick asked if the building envelope could be moved again.

Hurd advised that the previous moving of the building envelope was not handled properly.

Susan Freedman, Tomahawk Drive, confirmed that Mr. Schon's is the largest home on the largest acreage in the development and that the property can support the proposed project. She observed that in order to place the studio within the building envelope, it would sit on the fire road and be visible in such a way as to ruin the view of the ridgeline. Freedman suggested that if the building envelope can be modified so that the building can be placed in the valley area as proposed, the studio will not be visible. Freedman concluded by observing that Mr. Schon has

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF JULY 12, 2010**

done a lot of work to improve the value of the property and she requested that the Planning Commission work with him on this project.

Jonathan Braun of Scenic Avenue supports the conclusions and recommendations of the staff report. He is concerned about the setting of precedence in a subdivision of twelve homes. Braun would not like to see a trend of building a series of detached structures increasing the density on the ridgeline. He is aware of only one exception to the 5000 square foot limit rule having been granted in twenty five years and feels it would be a mistake to make more exceptions. Braun understands the desire to have a space for creating one's art and believes that with a little creativity, something acceptable can be brought forward.

Gay Kagy of Redwood Road observed that residents of San Anselmo are very proud of the Town's ridgelines and the manner in which they have been protected, adding that the building envelopes on Tomahawk were created with consideration of the ridgelines. She agrees that the three findings for Resolution No. 3038 cannot be made.

Gus Kanis of Scenic Avenue was on the Planning Commission in the 1980's and was on the Town Council in the 1990's. He is well acquainted with the development of the Quarry Mountain subdivision and believes the applicant can find alternatives that will meet the intent and spirit of the Town's concern with ridge tops and hillside development.

Close public hearing.

Zwick observed that without seeing the internal floor plans for the house, it would be hard for him to support the finding with regard to internal circulation issues; further, if the project were not exceeding the square footage requirements by 179 square feet, it would be easier to make the remaining findings.

Sisich recalled that the Commission recently asked an applicant to remove ten feet of a deck and, in light of that, is perplexed as to how the current application can be entertained. He does not accept the low impact argument and is concerned about the sound going across the valley. He believes the studio should be placed in front of the home. Sisich understands the applicant's frustration; however, he cannot make the findings. Sisich supports staff's recommendation.

Krebs is not sure he can make the findings for the additional 179 square feet. With regard to design review, Krebs has some concerns with regard to the traveling of sound.

Krebs is also concerned about going outside the building envelope because of the issue of precedence as compromises were made a long time ago and the resulting guidelines should be followed even in current times. Krebs would be interested in receiving some guidance from the architect as to why the project cannot be built on to the existing house. Although he generally feels property owners should be able to develop their property, this particular area is a very sensitive one.

Harris feels there is room for compromise but the current project as presented rejects compromise completely. He likes the project overall and would like to see more scrutiny of other

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES OF JULY 12, 2010**

alternatives, for example, bringing the studio within the existing development corridor and presenting a lower profile. Harris concluded by stating that he would like to see this item continued.

Overberger could make a case for why, in this one instance, it is possible to change the building envelope because the lot is considerably larger than most, but is concerned about the precedence of expanding the building envelope or going outside of it. She has confidence in the architect and believes he will find alternatives to the current project.

Brown thanked the applicant for coming to the Town before the fact and noted that it would be easier to consider the project if the Commission were looking at only one exception rather than two. He agrees with Commissioner Zwick that the current location is better than if the studio were tucked into the hillside on the front of the property. Further, Brown has no problem amending the building footprint. Brown would like to see the aerial topography and the existing floor plan.

Sorenson requested a continuance.

Sisich said that even if the building envelope changes, he does not feel he could vote for the studio in the currently proposed location.

M/s Zwick/Overberger to continue the project discussion to the next available date.
(Ayes: 6-0).

ITEMS FROM PLANNING COMMISSION

Henderson reminded all present that the second reading of the Green Ordinance and the first reading of the Housing Element are on the Town Council agenda for Tuesday evening.

With regard to the last Planning Commission meeting, Krebs stated that it is important to discourage public attacks.

Overberger feels abusive comments are unacceptable and that the Commission has the right to ask individuals to behave respectfully.

Henderson said it isn't constructive to allow attacks to take place in the meeting.

Sisich feels the Commission has been generous with applicants—an attitude that hasn't been taken in many jurisdictions.

ADJOURN TO THE MEETING DATE OF AUGUST 16, 2010

Brown adjourned the meeting at 8:50 p.m.

Respectfully submitted,

Nancy Harris