

TOWN OF SAN ANSELMO
ORDINANCE NO. #955

AN ORDINANCE AMENDING ORDINANCE NO. 485 OF THE TOWN OF SAN ANSELMO CHANGING THE ZONING DESIGNATION FOR THE PROPERTY GENERALLY KNOWN AS 27 MARIPOSA AVENUE, SAN ANSELMO, A/P 7-301-05, FROM PPD C-3 (PRELIMINARY PLANNED DEVELOPMENT WITH A PRESUMPTIVE USE OF GENERAL COMMERCIAL) TO SPD R-3 (SPECIFIC PLANNED DEVELOPMENT MULTIPLE FAMILY RESIDENTIAL FOR 14 ONE-BEDROOM APARTMENT UNITS, 13 OF WHICH TO BE RENTED TO LOW INCOME, DEVELOPMENTALLY DISABLED ADULTS ON THE PROPERTY KNOWN AS 27 MARIPOSA AVENUE, A/P 7-301-05, WHICH IS 11,200 SQUARE FEET.

WHEREAS, an application was filed with the Town of San Anselmo on October 18, 1993 requesting approval for rezoning, environmental review, setback variances, a lot coverage variance, parking variance, and design review to construct a 14-unit apartment building to be available to low income, developmentally disabled adults on an 11,200 square foot parcel located at 27 Mariposa Avenue, San Anselmo, A/P 7-30-105; and

WHEREAS, the Planning Commission held public hearings on December 20, 1993, and on January 10, 1994; and

WHEREAS, the Planning Commission considered information presented by the Planning Department, the applicant, and other interested parties at those public hearings; and

WHEREAS, the Planning Commission reviewed and approved the Negative Declaration with mitigation measures; and

WHEREAS, the Planning Commission recommended to the Town Council approval of the rezoning and Negative Declaration on January 10, 1994, and approved the variances and design review on January 10, 1994, based on the plans date stamped as received by the Town on October 18, 1993, and the further amended elevations and landscape plan date stamped as received by the Town on January 21, 1994, based on ten (10) conditions; and

WHEREAS, the Town Council held public hearings on January 25, 1994 and February 8, 1994 where they considered information presented by the Planning Department, the applicant, other interested parties, and the recommendation of the Planning Commission.

NOW, THEREFORE, the Town Council of the Town of San Anselmo does hereby find as follows:

Section 1. Findings required for the approval of the Negative Declaration pursuant to CEQA:

The project will not have a significant adverse impact on the environment due to the mitigation measures listed in Exhibit A of the Negative Declaration. The Negative Declaration, Mitigation Measures, and Environmental Checklist are attached to this Ordinance as Exhibit A.

Section 2. Findings required for the Rezoning

1. Density

Based on State Government Code Section 65915(a) the Town must allow a density bonus of at least 25% over the maximum allowable residential density permitted for a site when an applicant proposes to construct at least 20 percent of the total units for lower income households. This project will make nearly 100% of the units available to lower income households. In addition, State law does not set a limit on the density bonus that may be allowed; only a minimum is set.

This project received a "Fund Reservation" from the Department of Housing and Urban Development (HUD) on September 30, 1992. According to HUD officials in the San Francisco office, several milestones must be met for a project to retain its "Fund Reservation". One such milestone is to identify the site and get it under control with proper zoning. Based on conversation between Town staff and HUD officials, zoning must be in place by February 28, 1994 in order for HUD to extend the "Fund Reservation".

Town staff posed the question of whether a reduction in density would jeopardize HUD funding. The response from the HUD official was yes. Procedurally, HUD grants money to a project based on the number of units. A reduction in density would not necessarily equate, in this case, to a 1/14th funding reduction for each unit. This is because there are certain necessities that go into the construction of any building which are not necessarily saved by the reduction of units. Thus the economies of scale would be lost. According to the HUD official, if the project costs the applicant (North Bay Rehabilitation Services) more, than the cost increase could delay the project and consequently "jeopardize the funding for this project".

Based on the above evidence, a density of 14 units on this site to house persons with developmentally disabilities is found to be in conformance with the Government Code Section 65915(a) of the State of California.

2. Parking and Traffic

The proposed 14 unit apartment, associated with the proposed rezoning, will be limited to persons with developmental disabilities. These disabilities include autism, mental retardation, epilepsy and cerebral palsy. For the most part, people with these disabilities are unable to obtain a drivers license and therefore cannot drive a car.

Evidence to support this finding is based in part on the experience of a similar project located in Mill Valley. During two staff visits, this project had more than ample parking to serve the 10 units (5 parking spaces are provided). In addition, Mill Valley Planning staff has reported that there do not appear to be any problems associated with the limited on-site parking and there is not on-street parking permitted on this street in the vicinity of the property.

Developmentally disabled persons, either interviewed during a taped video of the Mill Creek project or in attendance at a neighborhood meeting in the Mariposa Avenue area, indicated that their mode of transportation was typically via a bus, bicycle, and/or walking.

Based on the above evidence, it is found that a reduction in the number of required parking spaces for this project is warranted. In addition, a review of the parking will be conducted by the Town one year following occupancy.

3. The project will be consistent in its entirety with all the provisions of the Town of San Anselmo General Plan. Specifically:

Land Use Element: Policies 3.3, 3.4, 11.1, 11.2, 16.2, and 20.1.

Housing Element: Policies 2.4.1 (1), (2), and (3).

Circulation Element: Policies 1.2, 13.1, 13.2, 13.3

Section 3. **Conditions of Approval**

1. A minimum of 13 of the 14 apartment units shall be occupied by low income, developmentally disabled adults;
2. The low income is to be defined by the Department of Housing and Urban Development. Lower income households means persons whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937.
3. The maximum rent charged for 13 of the 14 apartment units shall be affordable at a rent that does not exceed 30 percent of 60 percent of area median income.
4. The developmental disabilities shall be such that the residents are capable of living independently in a residential neighborhood and next to a grammar school;
5. One of the 14 apartment units shall be occupied by a site manager as a principle residence;
6. The 14: one-bedroom apartment units are intended for long term use and occupancy by one (1) individual per apartment unit;
7. There shall be five (5) on-site parking spaces at this time. The maximum number of motorized vehicles owned and/or operated by residents of the 14 units shall not exceed three (3) at this time, such that the remaining two (2) on-site parking spaces shall be reserved for guest parking. A review of the parking adequacy shall be conducted at a public hearing by the Planning Commission one year after occupancy of the units. Should there be a need in the opinion of the Planning Commission, the parking variance shall be modified to require additional on-site parking by the removal of front yard landscaping. Motorized vehicles do not include motorized wheelchairs; and
8. The community room shall be available strictly for the use of the residents and their guests of 27 Mariposa Avenue. The community room shall not be available for the general public use.

9. At such time that this project is no longer operating under the HUD requirements, which would be in approximately 40 years, the developer agrees to deed the property to the Town or come to any other agreement which will prevent the housing from being converted to other uses. The Town shall be required to rent the 13 units only to developmentally disabled adults (as described in this Resolution) who qualify as low income under the HUD regulations, and that the 14th unit be rented to a site manager. The Town shall have the right to select an option that will meet this requirement. Some suggestions are: (1) renew the project rental assistance contract with HUD, assuming it is still available at that time; (2) work with the County Section 8 certificate program to subsidize the rent, assuming this program is still available at that time; or (3) the Town could raise the rents somewhat to meet the ability of the people to pay. The project would then be free and clear of any debt service, so the collected rent could cover maintenance of the facility.

10. The landscaping shall be installed as shown on the landscape plan date stamped as received by the Town on January 3, 1994, with the following amendments: a) the 4 street trees shall be 24 inch box size; and b) the applicant shall propose and Town planning staff make a determination on the substitution of some evergreen trees for some deciduous trees on the property.

11. The applicant shall include a restriction in the rental agreement precluding persons, unrelated to the individual with a developmental disability, from living in the apartments. A copy of said rental agreement shall be submitted to the Town for review prior to the issuance of Building Permits.

12. The curb and sidewalk along the frontage of the subject property shall be replaced. The sidewalk concrete shall be stamped to match the Saint Anselm School Mariposa Avenue frontage.

13. Working under the Tri-Regional County Guidelines, under the direction of BDI Environmental Consultants, supervised by Tim Underwood of Marin County Hazardous Materials, and subject to EPA inspections, the construction company will remove the tank, conduct soils tests to determine if there is any soils contamination, and correct any problems. Should it be confirmed that the tank is filled, Mr. Underwood may permit the tank to remain, but there will be soils borings conducted around the tank and the samples will be analyzed by a State certified laboratory. If the tank is to be removed, the soils testing will take place after removal. Should soil have to be aerated, it will either be done on-site (under a cover) or off-site, but will work under strict EPA inspections.

The Town will require an encroachment permit and a \$2,000 bond to assure the work is completed.

FURTHER, a deed restriction listing these thirteen (13) conditions of approval shall be signed by the applicants, notarized, and recorded at the Marin County Recorder's Office.

NOW, THEREFORE, the Town Council of the Town of San Anselmo does hereby find as follows:

Section 1. Approval of the Negative Declaration with attached mitigation measures.

Section 2. Ordinance No. 485 is hereby amended by changing the zoning district of 27 Mariposa Avenue, A/P 7-301-05, to SPD R-3 for 14 one-bedroom apartment units, 13 of which to be occupied by low income, developmentally adults.

PASSED AND ADOPTED by the Town Council of the Town of San Anselmo at a regularly scheduled meeting on February 22, 1994, by the following roll call vote:


AYES: BREEN, YARISH, ZAHAROFF, CHIGNELL

NOES: (None)

ABSTAIN: KROOT


MAYOR

ATTEST:


Caroline Foster, Town Clerk