

A regular meeting of the San Anselmo Planning Commission was called to order on June 6, 1988 at 8:00 p.m. by Chairman Hayes. Staff present: John Kottage, Director of Public Works/Planning, John Roberto, Planning Consultant, and Hadden Roth, Town Attorney.

A. ROLL CALL

Commissioners present: Harle, Julin, Sias, Yarish, Hayes
 Commissioner absent: Manning

B. CONTINUED PUBLIC HEARING

PP-10/V-2209 - Lee Cole Properties, The Alameda, South of 443 The Alameda, A/P 177-250-54, proposed Resolution for Action as directed by Planning Commission for construction of a driveway within the existing easement to provide access to a property located in the County of Marin jurisdiction (required by SAMC Section 10-3.1906(a); and review of the mitigated Negative Declaration (referred back to Planning Commission by Town Council).

Michael Carradine, applicant, not present.

Hadden Roth advised that the typographical errors be corrected and on page 3, item #6 "must be provided" be stricken from the Resolution. He advised that he discussed this application with Ray Ahern of the County Planning Department. Mr. Ahern thought there would be a referral to the Town of San Anselmo once the application was made to the County on the question of annexation. Mr. Ahern said there had been some contact about this from the applicant in the past. Mr. Roth and Mr. Roberto felt the best approach would be not to include the annexation as a condition because the issue will be raised when it goes to the County.

Commissioner Yarish thought that the resolution describes the concerns of the Commission.

Commissioner Sias noted additional typographical errors and adds the wording in page 3, third paragraph after "sets forth..." without limitation".

Commissioner Harle had nothing to add.

Commissioner Julin thinks the discussion of the driveway in paragraph 8, 9 and 10 should be made clear these are planning issues in the event this is appealed to the Town Council; page 3, paragraph 3, items 5, 6 and 7 should state the Planning Commission wants a Preliminary Plan.

Chairman Hayes generally supports what is in the resolution and wondered if there was a downside to reference the driveway. He said the Commission could go before the Council to express their opinion if necessary.

Frank Burger, 324 The Alameda, had several comments on the resolution as follows: 1) Page 1, third paragraph referred to the applicant submitting the necessary material to the Planning Commission and in fact he has not submitted the plans for a 14' driveway. 2) Page 1, fourth paragraph refers only to the public hearings in May and it should include all the meetings since November 1987. 3) Page 2, paragraph 1 states only twenty-three days remaining but in fact it is only 17 days. 4) Page 3, paragraph 3, item 6, why are we asking for information on a 18' driveway when in fact we are insisting on a 14' driveway. In addition, the matter of fees is a great importance to the Town and he believes there should be no further action until this matter is cleared up.

Michael Carradine arrived at 8:25 p.m. and presented a five page document to the Commission with revised plans showing a 14' driveway.

Commissioner Sias asked if there has been application made to the County for a single family dwelling. Mr. Carradine said no.

Chairman Hayes stated that this is new information being presented and the Commission has not even had an opportunity to read the report or to respond to it.

Commissioner Sias said the resolution before the Commission is to deny without prejudice. The applicant can resubmit a new application in the future but because of the time constraints it is time to move ahead.

Hadden Roth said the points that Mr. Carradine addresses include the 14' driveway. The Commission has already decided in a past meeting there was not enough time to consider this revision because of the six month deadline. Annexation, also addressed by Mr. Carradine, is not part of the Resolution.

Mr. Carradine said he has not seen the staff report prepared for this meeting dated June 6, 1988, therefor cannot respond properly to it. It is also his understanding that the deadline is June 23, which would allow an additional 17 days to resolve some of the questions.

Mr. Roth felt it would be appropriate for the applicant to have time to review the report and to table the item until after the next item. Also, at the last meeting the Commission did not feel the 23 days was sufficient time to act on the driveway.

M/S Sias, Julin to table item PP-10/V-2209 to allow the applicant time to review the staff report and to take up again after the next item.

C. DETERMINATION OF VIOLATION

Nancy L. Thurmond, Oak Springs Drive, A/P 5-291-60, determination of violation of creation of lot in accordance with Section 66499.36 of the Subdivision Map Act.

Nancy Thurmond, applicant, present.

Hadden Roth presented staff report dated June 6, 1988 and added the burden is on the applicant to prove the legality of the lot.

Mrs. Thurmond requested a 30 day extension. She was unclear as to what the Town was requesting but now has a surveyor who is attempting to resolve some of the issues.

Commissioner Harle said the question at issue is that the transfer of the property was not done in a legal way.

John Kottage said it seems the applicant wants to comply with the Town code.

Nancy Thurmond said she thinks there might be some information that shows a legal lot and therefore is requesting a 30 day extension.

Mr. Roth said we would need to know that Mrs. Thurmond will not try to sell the property in the meantime then it would be fine to continue but feels only a two week continuance would be appropriate. Mrs. Thurmond stated no attempt to sell the property would be made.

Commissioner Julin felt a decision should be made tonight.

Commissioner Yarish was agreeable to a continuance.

Chairman Hayes concurred with Mr. Roth and said the item could be heard on June 20. Mrs. Thurmond was not sure she could get the necessary information in two weeks but would try.

M/S Sias, Yarish to continue Nancy L. Thurmond, Oak Springs Drive, A/P 5-291-60, determination of violation of creation of lot in accordance with Section 66499.36 of the Subdivision Map Act to the next meeting of June 20, 1988 to give the applicant opportunity to provide additional information to the Planning Commission. All ayes. Motion passed unanimously.

M/Harle to revive PP-10/V-2209 - Lee Cole Properties.

Mr. Carradine responded to the staff report as follows: page 1, paragraph 6, it states that he refuses to provide a 14 foot driveway but in fact we have now agreed and have submitted such a plan. Page 2, paragraph 1, disagrees that there is not adequate time to allow for review of additional information and still make a decision by the 23rd of June. Page 2, paragraph 2 with reference to requirements as required in Section 10-3.1205 and 10-3.1206 we have submitted a preliminary plan for a driveway and have met all other requirements. With regards to the driveway being part of a larger issue, we have every right to have the driveway paved without developing the lot. It is normally a condition of towns that utilities and roadways be done prior to developing the parcel therefore disagrees with page 2, paragraph 5 about the driveway being premature. He said he has addressed the drainage and an application to the County for a home will not affect the driveway. There is only one obvious location for the driveway and the house. Page 2, paragraph 9, regarding an 18' driveway, we have now submitted plans for a 14' driveway; Page 3, paragraph 1, we are not required to provide improvement plans; Page 3, item 1 and 2 have been complied with by providing a preliminary plan and final plan; Item 3 regarding a simultaneous application, it is his contention that they are not required to do this; Item 4, we have provided a plan for a fourteen foot driveway; Items 5 regarding architectural floor plans and elevations, we feel this has no affect on the driveway and it not required; Item 6, it is beyond our application to provide plans on other properties and we are proposing a 14' driveway, not 18'. We have staked the driveway and a 14' driveway will fit on the existing driveway with no additional filled or cut banks except in one location which will be minimal; Item 7 we are not required to provide this information but any building on the parcel will be entirely above grade and will require no grading. All drainage of the dwelling and parking deck will be contained on the property and will not spill down the hill.

Mr. Roth stated that the Resolution states that the applicant refused to provide a 14 foot driveway on May 16 but agreed to on May 31, 1988.

There was discussion about items 1-5 to be used as direction for the information the Planning Commission needs for a future application. Commissioner Sias said that all concerns raised in previous hearings will not be dead issues and will be raised again with future application. John Roberto said the applicable section in the San Anselmo Code will need to be considered in order to improve the driveway. When the County of Marin gets a copy of this Resolution they will see the comments the Commission is asking for in a future application.

Chairman Hayes wondered if the wording should reflect all the dates of subsequent meetings on page 1, paragraph 3. John Roberto suggested adding... "on various dates including" before May 12, 16 and 31, 1988....

Regarding page 3, item 6, Chairman Hayes wanted to include sections that show the elevations of retaining walls.

Chairman Hayes also questioned the consulting fees still outstanding to the Town. Mr. Roth said that should be treated separately considering the unique facts of the application. Commissioner Julin stated that as of April 30, 1988 Lee Cole owed \$2,565 and J. K. Naylor is in a receiver ship and owes \$1,329.69. She would like to see a separate resolution prepared addressing the outstanding fees. Mr. Carradine said that after this application was first denied he was told there would be no additional fees. Chairman Hayes said there would be no additional filing fee but no one agreed that the consulting fees should be waived. Mr. Carradine said that J. K. Naylor is in a state of bankruptcy and fees have now been separated. Lee Cole Properties owes 25% of the fees which amount to about \$1,000. Mr. Roth said he will pursue every avenue possible for collecting money.

M/S Julin, Sias, a Resolution of the Town of San Anselmo Planning Commission denying a variance application by Lee Cole Properties to construct a driveway over portions of A/P's 5-043-16,22 and 31 without prejudice to submission of a new application and to accept the minor changes as noted. Resolution attached.

The Planning Commission stated that all fees are due and payable from the processing of this application for all four properties and request the Town Council to direct the Town Attorney to develop recommended strategy for collecting the money right away.

All ayes. Motion passed unanimously. Applicant advised of the ten day appeal period.

D. PUBLIC HEARINGS

1. U-621 - Church of Divine Man, 1381 San Anselmo Avenue, A/P Nos. 7-055, 7-052-56, 7-052-58 and 7-052-59, consideration of revocation of the use permit granted in May, 1987, for a church in an R-1 District.

John P. Corlie, Attorney for applicant, present.

John Kottage presented the staff report dated June 6, 1988.

Hadden Roth said the steps the Commission should follow are to identify if there is any such activities which exceed the use and if so, if the use(s) are not in the best interest of the public, specific findings should be made in a form of a resolution to be prepared for the June 20, 1988 meeting. The applicant should then be given 30 days to terminate the excessive use(s) and on August 1, if the uses are not so terminated then the use can be revoked after a public hearing.

Commissioner Julin wanted to know if this item was noticed. Mr. Kottage affirmed.

John P. Corlie, Box 2, Pleasanton, said they concur that the Commission should determine conditions put on the Church. It was their opinion that the use was for a Church and speaks for itself all conditions have been fulfilled. What specific limitations were put on the use permit that is not clearly defined. An example is that the conditioned use permit did not state number of cars. The conditional use

TOWN OF SAN ANSELMO
RESOLUTION NO. 88-10

A RESOLUTION OF THE TOWN OF SAN ANSELMO PLANNING COMMISSION DENYING A VARIANCE APPLICATION BY LEE COLE PROPERTIES TO CONSTRUCT A DRIVEWAY OVER PORTIONS OF ASSESSORS PARCEL NOS. 5-043-16, 22 AND 31. WITHOUT PREJUDICE TO SUBMISSION OF A NEW APPLICATION.

WHEREAS, on March 22, 1988 the San Anselmo Town Council at the request of Lee Cole Properties' representative, Carradine, Inc., granted a ninety (90) day extension to the March 26, 1988 deadline to act on its variance application. An extension was given to June 23, 1988 to provide additional time for the applicant to prepare all the materials and information necessary for the Town to review and act on a modified driveway drawing; and

WHEREAS, on March 22, 1988 the San Anselmo Town Council referred the variance application back to the San Anselmo Planning Commission for public hearing and action; and

WHEREAS, Carradine, Inc. submitted additional materials and information to the Planning Department on April 22, 1988; and

WHEREAS, the San Anselmo Planning Commission held a duly noticed special and continued public hearings on various dates including May 12, 16 and 31, and June 6, 1988 to consider the environmental, and health and safety issues associated with the variance application; and

WHEREAS, the Initial Study prepared for the variance application found that the eighteen (18) foot wide paved driveway proposed by the applicant would result in adverse storm water, grading and growth inducing impacts which could be partially mitigated by reducing the size of the paved driveway to fourteen (14) feet, which is the minimum width necessary to serve one single family home; and

WHEREAS, the applicant's representative at the public hearing on May 16, 1988 refused to provide a revised driveway plan for a fourteen (14) foot wide paved driveway (See Appendix A); and

WHEREAS, the San Anselmo Planning Commission, Town planning and engineering staff, and the citizens of San Anselmo are unable to determine the adequacy of the alignment of a fourteen (14) foot wide paved driveway until an engineered driveway plan is submitted for review; and

WHEREAS, the applicant's representative at the public hearing on May 31, 1988 stated that he would submit a revised driveway plan for a fourteen (14) foot wide paved driveway for review by the Planning Commission; and

WHEREAS, there is not adequate time for the applicant to prepare, and the Town staff and other public agencies to review and prepare a report, and for the Planning Commission to hold public hearings on a new driveway plan in the twenty-three days remaining from May 31, 1988 before action must be taken on the application in accordance with law; and

WHEREAS, the Planning Commission finds that the applicant must submit, and have approved, a driveway plan application which meets the design requirements of the Town as required in Sections 10-3.1205 and 10-3.1206 of the San Anselmo Municipal Code; and

WHEREAS, the Planning Commission finds that the variance application to construct a driveway within an alleged legal utility and roadway easement is part of a larger project to develop a parcel of land (APN 177-220-54) located in the County of Marin, and that no application has been made to the County of Marin to develop the parcel, nor has the County of Marin previously approved a development proposal for APN 177-220-54; and

WHEREAS, the Planning Commission finds that should the driveway be constructed without development of the property it is intended to access, the result would be an unmaintained driveway which will have detrimental effects on downslope properties such as deposition of eroded soils and increased unchanneled runoff from the undeveloped parcel it will access; and

WHEREAS, the Planning Commission finds that it would be premature to act on an application to approve a variance to construct a driveway to serve a vacant parcel of land, until an application for development of APN 177-220-54 has been made to the County of Marin; and

WHEREAS, the Planning Commission finds that development of the property in conformance with the Towns R1-H development standards is necessary if the Planning Commission is to insure that all potential significant adverse environmental impacts associated with the development of the driveway and parcel APN 177-220-54, as described in the Initial Study and as discussed in the numerous staff reports and public hearings held on this variance application, can be mitigated; and

WHEREAS, if the applicant makes application to the County of Marin to develop APN 177-220-54, the Town of San Anselmo would be afforded an opportunity under Marin Countywide Plan policy B-2.2, on page 5-22, to review the application jointly with a variance application to construct the driveway in the Town; and

WHEREAS, simultaneous applications to the County of Marin and the Town of San Anselmo would allow both agencies to review all aspects of the development proposal in total, without being forced to act separately and independently on two very related aspects of a development project, and

WHEREAS, based on the above findings of fact, the Planning Commission finds that the variance application to construct an eighteen (18) foot wide paved driveway to an undeveloped parcel of land which is outside of the Town's jurisdiction will materially effect adversely the health, safety and

welfare of persons and property in the area; and

WHEREAS, based on the above findings of fact, there are no unusual circumstances applicable to APN 177-20-54 that would prevent the applicant from submitting an improvement plan for the property to the County of Marin which will be reviewed by the Town of San Anselmo.

NOW, THEREFORE, BE IT RESOLVED that the San Anselmo Planning Commission hereby denies Lee Cole Properties application for a variance to construct a driveway over portions of Assessor Parcel Numbers 5-043-16, 22 and 31, without prejudice to submission of a new application.

NOW, THEREFORE, BE IT FURTHER RESOLVED that based upon the request of the applicant's representative at the public hearing of May 31, 1988 for direction as to the information the Planning Commission needs to come to a decision on a future variance application, the Planning Commission hereby sets forth without limitation the information and applications which it needs to consider in reviewing a new proposal to construct a driveway within the easement over portions of Assessors Parcel Numbers 5-043-16, 22 and 31.

1. An application for a variance as required by Section 10-3.1906 of the San Anselmo Zoning Ordinance.
2. An application for Preliminary Plan approval as required by Section 10-3.1205(e) of the San Anselmo Zoning Ordinance.
3. A simultaneous application for development of APN 177-220-54 to the County of Marin; the application to be referred to the Town of San Anselmo for review and comment as required by County-wide Plan Policy B2.2 on page 5-22 of the Marin Countywide Plan.
4. A construction plan including elevations and cross sections for a fourteen (14) foot wide paved driveway prepared by a licensed civil engineer and submitted to the Town for review and action.
5. Architectural floor plans and elevations for the home proposed to be constructed on APN 177-220-54.
6. A driveway improvement plan providing specific information on how all properties accessed by or abutting the driveway will be graded and drained, including information on the amount of the material to be graded for a 18 foot and 14 foot driveway.
7. Improvement plans for APN 177-220-54 showing how the site will be graded and drained, and how the house will be drained.


NOW, THEREFORE, BE IT FURTHER RESOLVED that the Town Planning Director forward a copy of this resolution to the Marin County Planning Commission and Board of Supervisors.

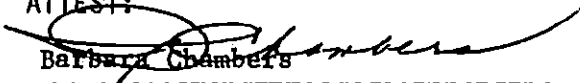
PASSED AND ADOPTED at a regular meeting of the San Anselmo Planning Commission on the sixth day of June, 1988, by the following vote to-wit:

AYES: Harle, Yarish, Julin, Hayes, Sias

NOES:

ABSENT: Manning


Chairman, Planning Commission

ATTEST:

Secretary, Planning Commission