

**PLANNING COMMISSION MEETING
OCTOBER 24, 1988**

The special meeting of the Planning Commission was called to order on October 24, 1988, at 8:00 p.m. in the Council Chamber by Chairman Hayes. Staff present: John Kottage, Director of Planning and Public Works and Hadden Roth, Town Attorney.

ROLL CALL

Commissioners present: Harle, Julin, Manning, Kroot, Sias, Yarish, Hayes

B. PUBLIC HEARINGS

PP-9 - Robert M. Yeakey, 80 South Oak Avenue, A/P 7-241-50, preliminary plan review of a single family dwelling in an R-1 H District.

AR-7 - Robert M. Yeakey, 80 South Oak Avenue, A/P 7-241-50, architectural review of a single family dwelling in an R-1H district.

Robert Yeakey, applicant, and Neil Sorensen, Attorney, were present.

John Kottage presented the staff report dated October 24, 1988 and the background information relating to this application. He added that the six items of concern of the Planning Commission have now been addressed and staff has also attached several conditions if the Commission chooses to approve this application. The Town Council has requested that the Planning Commission review the new information and make a decision within this one meeting.

Commissioner Harle asked if the placement of the building has been moved since the last meeting. Mr. Kottage said the driveway has been relocated and is not in the same location as that proposed in 1984, the house has been shortened by 15 feet and decreased by approximately 600 square feet, but he did not think the pool or the house had been moved.

Commissioner Sias asked if the building is still being proposed on the unstable part of the lot. Mr. Kottage responded by saying that the area in question is the living room and part of the entrance. The major change is the reduction of 15 feet from the length. The current proposal only impacts 17% of the lot area.

Neil Sorensen said the technical concerns have been addressed since the January 1988 Planning Commission meeting of denial. Regarding concern # 3 in the staff report, they felt it more important to reduce the lot coverage and did not want to cut into the hill, therefore there will be increased fill taken off the site. They are prepared to upgrade the water system to the public system and include a fire protection system in the home. They are paving approximately 1,200 feet of road and there will be drainage improvements that will be an advantage to the area. With regards to architectural review, the proposed house color is french gray.

Robert Yeakey explained that the house is being moved further down the lot and rotated to the right. The house will be a decrease of approximately 600 square feet and 15 feet shorter. They will eliminate a guest room, bath and the den. He stated the height will remain the same.

Commissioner Sias asked about the difference between the cut and fill of what is originally planned and what is currently being planned. Mr. Kottage explained that there will be approximately twice the amount of fill removed from the lot because the retaining walls are being reduced.

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Chairman Hayes asked about the placement and height of the retaining walls. Mr. Yeakey said that by lowering the driveway he has decreased the driveway retaining walls from a maximum of 10 feet to a maximum of 4 feet, and in the other areas to a maximum of six feet decreasing to zero.

Debbie Treewater, 1000 South Oak Avenue, asked for specifics relating to the drainage and wanted to know who would be responsible for maintaining the system once in place, and asked how the 25 year storm runoff was calculated. She was very concerned because of extensive damage to her property in the past and wanted assurance that this drain and culvert would be capable of handling the additional runoff from the Yeakey property.

Mr. Yeakey gave an explanation of what the civil engineer was proposing.

Chairman Hayes asked if this drainage system would have ample capacity or would it impact the Treewaters. Mr. Kottage said the system currently has 13 cfs and can handle 18 cfs so the culvert would have amply capacity to handle the runoff as long as it was maintained. He added the responsibility of maintaining the culvert would fall on the land where the culvert is situated.

Commissioner Yarish asked if there was a consideration of putting a new drainage system under the street. Mr. Kottage said the water has been draining one way for many years and by changing the direction would make it too concentrated.

Commissioner Harle said the slope is such that the flow can go off the road and now the applicant is proposing to berm the road which will in fact concentrate the water towards the Treewater property. He felt the improvements to the road would impact the Treewaters. Mr. Kottage noted that the civil engineer's report said the culvert can handle the runoff and he is in agreement with the engineer.

Commissioner Sias stated that the report addressed a 25 year flood but wondered what kind of volume would there be for a 50-100 year flood. Could the culvert handle the runoff? Mr. Kottage responded by saying the great jumps in volume occur in the lesser year storms. There is not that much difference in a 25-50 storm. However the Town Ordinance states all drainage systems built will be able to handle a 10 year flood.

Mrs. Treewater wanted to know who would be liable if this drainage system did not work and created damage to her property. Mr. Kottage said that the upstream property has a reasonable right to develop his or her property and the downstream property has some responsibility as well.

Mr. Yeakey stated that the 15" culvert in question is on Mr. Lieberman's property, not on Mrs. Treewater's property.

Walter Tamley, 951 South Oak Avenue, agreed that the culvert is on Mr. Lieberman's property. He explained that a driveway was bulldozed years ago without permits or provisions for drainage. A 8" pipe was replaced by a 12" pipe by the Lieberman's after Mrs. Treewater brought a suit against them.

Mr. Lieberman said that a contractor by the name of O'Donohue was given permission years ago to put the driveway in but was not aware of any suit against him.

Michael Brausen, 535 South Oak Avenue, stated that he has had landslide problems and is concerned about more landslides if the land is changed.

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Andy Bacich, felt the Commission should take into consideration the engineer's expertise which states the drainage would not affect the neighbors.

Walter Tamley, 951 South Oak, reintroduced a letter dated July 17, 1987 that had previously been submitted to the Commission. He noted that the road is very fragile and the land the applicant is proposing to develop is very soft. He noted that at a previous meeting Mr. Kottage was asked if the Town would consider making South Oak as a Town maintained street for \$25,000 and Mr. Kottage said no. Mr. Tamley asked if the Town would consider the same proposal for \$50,000. Mr. Kottage said no and explained that there is not enough money in the current budget to handle the streets that are currently Town maintained and from a fiscal standpoint it would not be wise. Taking on a Town maintained street would also mean widening the road, drainage improvements and far more than what is anticipated by this project.

Mr. Kottage went on to say that he was concerned about people disregarding the expertise of the engineers. These professionals that have stated this project will work and in fact are some of the same people staff uses on the Town projects. Mr. Kottage added that in his professional opinion as the Town engineer he feels the project is safe.

Ed Cecil, 1 South Oak Avenue, stated that the only change in the application is the addition of water hook up to MMWD. He thought there was a decision made by the Commission in a previous meeting that engineers appointed by the Town, not the applicant were to survey for stability. Also, the engineer's report on file only addresses the stability of the road in front of the applicant's property, not the entire road but previous soils reports address the instability of the entire area. He questioned the fire protection between the hours of 7:00 a.m. and 5:00 p.m. on South Oak. He does not feel there is sufficient parking now at Oak and South Oak and it certainly wouldn't be able to accommodate several cars. Mr. Cecil added that he has written several letters to the Planning Commission and did not see them included in the staff report tonight.

Mr. Kottage said that all letters and other documents pertaining to this application are in the Planning Department and available for review at any time. The information is so voluminous that he only included the new information in the staff report. With regards to closing South Oak, staff has made a thorough attempt to keep access to the homes open. The conditions imposed on the owner are the most concise ever made to his knowledge. He read the conditions for the audience and the Planning Commission. Mr. Kottage did not feel the road would ever have to be closed for an extended period of time, and the roadway work would be limited to bringing the utilities to the site, with minimal work for water and sewer. However, he added that all utilities will have to conduct their work to allow for emergency vehicles to pass at all times.

Commissioner Manning asked if it was the Town's responsibility to provide 48 hour notice to the neighbors for road closure. Mr. Kottage said the responsibility would be on the owner but the Planning Commission could add additional requirements to the owner if they feel it is warranted.

Dawn Whitermore, 535 South Oak Avenue, said the suggested parking area when the road is closed at Oak and South Oak is too small now for a vehicle to pass and even if parking was possible it would take her 15 minutes to walk to her house

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from there. Mr. Kottage noted that perhaps there should be another means for parking of vehicles during road closure.

Commissioner Sias asked who would be responsible if the damage to the road exceeded the \$50,000 bond by the applicant? Mr. Kottage said the road is privately owned. Mr. Roth added that section 845 of the Civil Code addresses the mutual obligation of private easement co-owners.

Mrs. Treewater wondered how the trucks would maneuver with the cars on the roadway. It is a one lane road now. Mr. Kottage said that usually one 50 foot section is done at a time.

Chairman Hayes stated that this parcel in question is a legal building site but asked if there is anything different about this house that is creating so many concerns. Mr. Kottage said the only difference is the amount of fill that will be taken off the site.

Commissioner Manning wondered if the owner could provide a small vehicle, perhaps a golf cart to shuttle the neighbors to and from their homes during the period of time the road is closed.

Chairman Hayes where the trenching would take place. Mr. Kottage said it would be the length of South Oak Avenue.

Chairman Hayes asked for an overview of the installation process for the water and the placement of the water tank. Mr. Yeakey said there will be a 50,000 gallon water tank put in to replace a wood tank that is now on South Oak Avenue. It will be on the Shortall property and will serve other properties. The water line will go down on the inside part of the road. The maximum time the road needed to be closed to put in 1,200 of water line would be 4 days.

Walt Tamley, 951 South Oak said the retaining wall on the Gibson's property will be disturbed by the installation of the water line.

Mr. Gibson, 47 South Oak Avenue, said that he has had \$268,000 damage done to his home because of land movement and is concerned about any trenching being done in the area.

Mr. Yeakey questioned how Mr. Gibson was able to handle the trucks coming and going from his site without concerns from the neighbors. Mr. Gibson responded saying the trucks used Oak Avenue, not South Oak.

Mr. Tamley asked if MMWD has already given approval. Mr. Kottage thought they had informally but added the conditions stipulated in the staff report state are that prior to issuance of a building permit the necessary approvals have to be secured.

Mr. Yeakey explained that the financing to MMWD would be by way of an assessment district and the assessment would only affect the undeveloped parcels in the area.

Mr. Cecil questioned whether this should be a legal building site if there would always be so many problems regarding the road, water, drainage, etc.

Mr. Gibson wanted clarification as to why the Commission was hearing this application again after it has already been approved. Mr. Kottage said that additional information has been obtained and the applicant has supplied much of the requirements the Planning Commission wanted and staff has imposed more stringent conditions. The Town Council has referred the application back to the Planning Commission.

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Mr. Gibson asked if there is an impending law suit? Mr. Roth affirmed. Mr. Gibson asked if there was pressure from the Town Council to have this application approved because of the law suit? Mr. Roth said neither the Town Council nor he had asked for the Planning Commission to come to any specific conclusion. Chairman Hayes added that there are substantial changes since the denial such as 1. reducing the house by 600 square feet; 2. reducing the retaining walls creating a lower visual impact; 3. driveway has been lowered; 4. tying into the MMWD system; and 5. a drainage study has been made. The Planning Commission has to decide if these modifications provide enough information for approval or denial if the findings can not be met.

Mr. Gibson stressed his concern for the roadway and did not feel the \$50,000 was a sufficient amount of money to stabilize the roadway. He understands the right of the property owner but at what expense to the other property owners?

Mr. Sorensen stated that a road stability study was performed by D. Herzog on April 4, 1988 addressing all of South Oak, and it was determined that the road is stable enough to handle the vehicles as long as the work was done during the dry season.

Mr. Roth noted that condition number 18 only speaks to the road being repaired and it should include the repaving of the road. He asked Mr. Yeakey if the damages occurring to the roadway exceed the bond of \$50,000, would he be willing to pay for the repairs at whatever the cost. Mr. Yeakey affirmed.

Mrs. Treewater wondered what kind of recourse would there be if the applicant was unable or unwilling to pay the amount above or beyond the \$50,000 bond? Mr. Roth said that Section 845 of the Civil Code addresses that problem.

Commissioner Yarish asked for the definition of "road" as stipulated in concern number 18. Mr. Kottage felt it was any portion of the road being used during construction by the owner. Mr. Yeakey said they would be accessing Oak Avenue and South Oak Avenue and added that he is planning on repaving from the end of the town maintained street to the end of South Oak before completion.

At this time the Commission was asked to give a general sense of whether they were leaning towards approval or denial.

Commissioner Manning felt that with the information presented and evidence of the engineers he was inclined to support the application.

Commissioner Julin did not feel there was sufficient information relating to the grading to make a determination and was not sure she could approve because of the health and safety issue with the neighbors.

Commissioner Harle said his main concern in the past was the unresolved questions on the drainage and those questions have now been met with as much assurance as there could be. He now can support the application.

Commissioner Sias still has concerns about the excavation, grading and the affect this will have on the surrounding area.

Commissioner Kroot was in support of this application, adding that the Town has imposed excellent conditions that will control the project.

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Commissioner Yarish said he was leaning towards support, stating the retaining walls would be lowered, the landscape will screen; the grading that will be performed will not change the contours as the grading will be done under the house and there will be no scars in the hillside.

Chairman Hayes was opposed to the application. There will be substantial excavation of the site, approximately 1,500 yards, which is only 10% decrease from the previously proposal that was denied. He thought the 1984 project floated with the contours of the land. He did not feel this project was consistent with the R-1H requirements because it clearly states there should only be minimum grading.

Chairman Hayes indicated that the majority of the Planning Commission were in support of the application. At this time the Commissioners should make specific statements relating to the requirements of approval and comments to the conditions that staff has included.

Commissioner Manning wondered if the Town has asked for a completion bond from the applicant. If not, what would the liability be for the Town if the applicant was not able to complete the project or for the neighbors. Commissioner Yarish said it was his understanding that it was an option between the owner and the General Contractor.

Commissioner Manning would like to see additional means of transportation added as a condition to the builder.

Commissioner Julin asked if there has been confirmation from MMWD that this applicants property will be in the assessment district. Mr. Kottage said the Town has received a letter stating the Water District is in the process of forming the assessment district. Commissioner Julin would like to see a limitation on the size of trucks removing the dirt from the site. Even though there would be increased off site trips, she felt the smaller trucks would cause less damage. She would like to see that there is dust control of the area, perhaps watering down to eliminate excess dust in the air. She felt there should be some means of ensuring that all sub contractors are made aware of all the conditions of this application and that limitations be placed on the time work is allowed, both off site and on site.

Mr. Kottage said the applicant would prefer to use the larger trucks because of the fewer trips and staff has not addressed this because the bond should take care of any damage caused by the road.

Commissioner Julin asked if there could be a hold harmless clause for the Town. Specifically, she wondered if the Town would be liable if the application is approved and eventually the site proved to be unstable. Mr. Roth said that the Commission could ask the applicant to provide a hold harmless agreement however it is only as good as his assets without a bond and what would be the length of the agreement? Mr. Roth also noted that municipal approvals, per se are not a legal basis for liability because of immunities written into the law.

Commissioner Sias thought transportation should be provided by the applicant while the roadway is closed, that a statement should be made in the conditions about the damages incurred to the road in excess of \$50,000, and there should be a clarification of the roads involved in case of damage.

Mr. Roth suggested wording for condition number 18 as follows: "...to insure the integrity of the road from the end of the Town maintained portion of Oak Avenue up to land including south Oak across the full length of the owner's property....."

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Mr. Gibson did not feel that \$50,000 was a sufficient amount to pave the road and also repair the damages. Mr. Yeakey noted that in addition to the \$50,000 bond, which is just to cover damages, he is planning to pave the road.

Commissioner Sias was interested in obtaining specific information on the water plan, adding that the water tower has not yet been addressed with regards to placement, color, number of gallon capacity etc. He would like to see 5 yard trucks used instead of the 10 yard trucks and the hours of operation for on site and off site be the same.

Mr. Yeakey said the water tower had a 50,000 gallon capacity.

Chairman Hayes asked if this project is now subject to CEQA review because of the MMWD hookup which would increase development all the way up Oak Avenue. Mr. Kottage thought perhaps the water tank should come back before the Planning Commission for design review and CEQA review. Mr. Roth suggested wording change in condition number 1 to address Chairman Hayes concern as follows: "...Marin Municipal Water District and subject to the approval of the Planning Commission and Town Council of the Town of San Anselmo".

Commissioner Kroot suggested adding wording under condition number 11D to read: "The owner's geotechnical engineer shall inspect all grading and excavation while in progress and shall provide certification to the Town that this work was accomplished in a safe manner."

Commissioner Kroot would like to see condition number 21 changed from "November 15" to "October 15". Mr. Kottage said that in order to get land movement, the ground has to be saturated and he was more concerned during May than November. Commissioner Julin agreed with Commissioner Kroot's proposal.

Commissioner Kroot thought the work time stipulated in condition number 34C should be 8:00 a.m., both off site and on site. An additional condition under 34E III should read: "A sign shall be posted at the corner of Oak and South Oak Avenue to state dates and times of closure. This notice is to be posted a minimum of 48 hours in advance of the closure".

Chairman Hayes brought up the question of the water tank and the CEQA review. He felt strongly about a review prior to the tank being build. Commissioner Harle noted that the Town has already specified the R-1H properties within this area so the installation of the tank will not increase the number of lots.

Mr. Yeakey said the water tower will be constructed by accessing the fire road, not Oak Avenue.

Commissioner Harle said the Planning Commission had input on the color, shape and placement for the water tank for the Quarry Mountain project.

Paul Nave noted that the water tank capacity for Quarry Mountain project was 47,000 gallons.

Chairman Hayes suggested removing the words "...such as stucco..." from condition number 3; and in condition numbers 8 and 9 that refer to drainage, wording should be added as follows: "In addition to the preceding on site improvements the owner shall replace the 15" culvert located on the Lieberman property with an 18" culvert, all subject to approval from the Liebermans and the Town of San Anselmo

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Department of Public Works". Mr. Lieberman said he was willing to agree to that.

Chairman Hayes said there should be a statement in condition 34 stating that the road cannot be closed for more than a maximum of 5 days without with approval from the Department of Public Works.

Commissioner Sias asked if a lien could be placed on the property to cover the damages to the road in excess of the bond? Mr. Roth said that would require approval from the owner. Mr. Yeakey said the engineers stipulate the work should be done during the dry season. He noted he would prefer using the 10 yard trucks, adding they are designed to carry heavy loads without undue damage to the road. John Kottage said the concrete truck will be the largest and most damaging of all the equipment.

Commissioner Harle thought the on site work should follow the same hours as those in the Municipal Code and not be restricted to the off site hours. Commissioner Yarish concurred, adding that many of the construction workers are commuting from the Sonoma area.

DESIGN REVIEW

Commissioner Harle was content with the design review for this application.

Commissioner Sias felt the colors were too light and would like to see earth tones used. He thought pueblo or sandstone would be more in keeping with the area.

Commissioner Kroot thought silver gray stucco was too light and would prefer French Gray.

Commissioner Manning concurred with Commissioner Kroot.

Chairman Hayes said the goal of the R-1H ordinance was to have the house blend in with the hillside. He felt the exterior should have brown tones and is opposed to stucco and the French Gray.

M/S Harle, Kroot, to approve PP-9 - Robert M. Yeakey, 80 South Oak Avenue, A/P 7-241-50, preliminary plan review of a single family dwelling in an R-1 H zone; the Planning Commission directs staff to prepare a resolution of approval with the attached conditions as revised on October 24, 1988 and that the findings required by Section 10.3-1208 F 1, 2 and 3 i.e., (1) that the plan conforms to the requirements of the Town General Plan; (2) that the plan conforms to the requirements of article 12; and (3) that the plan does not affect adversely the health or safety of persons in or adjacent to the area or endanger property located in the surrounding area have been made.

Ayes: Manning, Kroot, Yarish, Harle
Noes: Julin, Sias, Hayes

Motion carried.

Commissioner Julin asked why the findings used in the resolution for denial are different than that included in the motion for approval tonight. Mr. Kottage said the items listed in the resolution are included within the second finding made tonight.

M/S Yarish, Manning, to approve AR-7 - Robert M. Yeakey, 80 South Oak Avenue 7-241-50, architectural plan review of a single family dwelling in an R-1 H zone on the basis of the color palate and plans provided at the Planning Commission

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meeting of 10-24-88 with the exception that "French Gray" stucco should be used. The Commission determines that the Findings required in the San Anselmo Municipal Code Section 10-3.1210(b) (1) conformans to the approved preliminary plan; (2) adequacy of screening; and, (3) selection of architectural features enabling structures to blend with their environment, have been made..

Chairman Hayes asked what color the garage would be. Mr. Yeakey responded they would be dark gray.

Commissioner Sias wanted to make one last statement that the house color is taking precedent over the hill and strongly believes the house color should be an earth tone.

Chairman Hayes agrees strongly with Commissioner Sias. He felt the brown based gray would be better than the blue gray. This house is going to be in the hillside and it should blend in with the hillside.

Mr. Yeakey noted that his personal preference would be the light gray but he would agree to the dark gray. He added that the landscaping would also be used to screen.

Ayes: Harle, Yarish, Manning, Kroot
Noes: Sias, Julin, Hayes

The motion carried. Audience advised of the ten day appeal period. Mr. Roth added that if there is an appeal it will be heard by the Town Council on November 15, 1988 at 8:00 p.m.

Because of the time constraints, Mr. Roth suggested the Planning Commission approve the motion tonight and make any corrections in the minutes. That way there would be sufficient time to make an appeal and be heard at the special Council meeting of November 15th.

M/S Harle, Kroot, move to reconsider PP-9 - Robert M. Yeakey, 80 South Oak Avenue, A/P 7-241-50, preliminary plan review of a single family dwelling in an R-1 H zone.

All ayes.

M/S Harle, Kroot, to approve removal of the wording regarding the referring action to staff for preparation for resolution and the motion be modified to read that the Planning Commission approves PP-9 - Robert M. Yeakey, 80 South Oak Avenue, A/P 7-241-50, preliminary plan review of a single family dwelling in an R-1 H zone with the conditions both as stated in the staff report dated for the meeting of October 24, 1988 and as revised at the meeting of October, 24, 1988 and the findings required in Section 10.3-1208 F 1, 2 and 3, i.e., (1) that the plan conforms to the requirements of the Town General Plan; (2) that the plan conforms to the requirements of article 12; (3) that the plan does not affect adversely the health or safety of persons in or adjacent to the area or endanger property located in the surrounding area have been made.

Ayes: Manning, Kroot, Yarish, Harle
Noes: Sias, Julin, Hayes.

Motion carried. Audience advised of the ten day appeal period. Because of the late hour, a courtesy notice will be mailed to the homes within the three hundred foot radius stating the decision on the applications and the appeal period and proposed hearing date for the Town Council.

C. APPROVAL OF MINUTES

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The minutes of August 29 and September 26, 1988 are to be carried over to the next meeting because of the late hour.

D. ADJOURNMENT

The special meeting of the Planning Commission was adjourned at 1:15 a.m. to the next regular meeting of November 7, 1988.

BARBARA CHAMBERS
ADMINISTRATIVE SECRETARY/TECHNICIAN