

PLANNING COMMISSION MINUTES
FEBRUARY 27, 1989

The special meeting of the San Anselmo Planning Commission was called to order at 8:00 p.m. on February 27, 1989 in the Council chamber by Chairman Sias. Staff present: Hadden Roth, Town Attorney, John Kottage, Director of Public Works/Planning, Vicki Hill and Susan Shaffer, Consultants.

A. ROLL CALL:

Commissioner's present: Julin, Yarish, Harle, Hayes, Sias
Commissioner's absent: Kroot

B. PUBLIC HEARING

PP-11 - Paul J. Nave, Marie Nave and Andy S. Bachich, End of Oak Avenue, A/P 7-201-08, review of initial environmental study and determination of whether a Negative Declaration or an Environmental Impact Report will be required for the proposed two lot parcel split for development of two single family dwellings.

The applicants and their attorney, Bruce Blakely, were present.

Vicki Hill presented the staff report, noting that since the staff report was prepared, MMWD has subsequently presented new information relating to the pipeline extension and water tank. MMWD has indicated that the proposed water pipeline extension associated with this application is subject to environmental review under CEQA and should be evaluated in the Town's environmental review of Nave's Preliminary Development Plan. Nave is only one out of four applicants seeking a permit for the water tank. It should also be noted that it is not possible to predict the significance of these impacts without a detailed Initial Study and this could not be accomplished within the 105 day time period associated with a Negative Declaration. Therefore, the two options are to: A) Prepare a Negative Declaration with inclusion of a mitigation measure which requires a separate environmental review of the water system and development of detailed pipeline permit conditions to reduce or avoid identified adverse impacts; or B) Prepare a Focused EIR which will address impacts of the water facilities and will include specific mitigation measures. This would allow time to develop a project description for the water system and to amend the Initial Study to reflect potential water system impacts.

Bruce Blakely said he felt the negative declaration should be approved with the minor mitigations as noted in the staff report. The applicants are willing to provide whatever is necessary regarding geology and traffic. There are five acres in question but only two homes. The applicants will be residing in these homes. Mr. Blakely said he just became aware of the concerns that the water tank has created but thought this could still be handled by a Negative Declaration. He felt the Focused EIR is an unnecessary expense.

Mr. Roth thought the most conservative legal position would be to go forward with the Focused EIR because of the application to MMWD for the pipeline and tank which affects four applications. This however, could be a burden on the applicant. It looks like the neighbors would want a focused EIR but if the applicant would agree to sign a hold harmless agreement with the Town then Counsel could recommend the Negative Declaration with the mitigations.

Johnathan Braun, 479 Scenic, felt this project could have a significant impact on the neighborhood. The soils report indicates that there will be 4,800 cubic yards of dirt removed which relates to approximately 2,000 trips off the

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site. He thought the Commission should look at alternative ways to reduce the grading. The water tank issue is not resolved, nor the impact it could have. There is a potential for 18 new homes to be built in this area and the consideration of traffic and water are very much related. He feels there is a need to see an extensive plan of the downhill drainage. He strongly recommends a focused EIR. Mr. Braun thought item number 19 under Recreational in the Environmental Review Checklist should be changed to yes. A portion of the fire road that is on subject property is the primary road to Mt. Baldy.

Nancy Cecil, 1 South Oak, was concerned about development in the area and the additional vehicles on a fragile road. In the absence of her husband Edward Cecil, who is representing the Watkins estate, she read a statement that said a focused EIR should be required and it would be a gross misconduct of the Town and it would be grossly negligent if it was not done.

Michael Brausen, 555 Oak Avenue, said the roads are very bad and there was no way 2,000 truck loads would be able to travel the road without doing serious damage to the privately maintained road. He thought the land was unstable and there is potential for slides. He is still having problems and his house has been there for 30 years.

John Cowperthwaite, 87 Woodland, would also like the questions answered about the fire road, agreed there should be an indemnity agreement and bond required of the applicant. He thought there should be a focused EIR.

Mr. Maier, 500 Oak Avenue, was concerned about flooding downstream during the rainy season and would like more information on drainage.

Andy Bachich understood the concerns of the neighbors but added that the details, including drainage and soils will be addressed at a later date.

Paul Nave said there are other ways to access the fire road than through their property. He explained that the road goes across several properties. He said that they have hired all the appropriate people to ensure the safety of the property. He noted that he could put a well on his property if there is a delay with MMWD.

Mr. Blakely said the soils report indicates there should be no problem developing the lot however there are many comments that indicate anti-development. He noted this is a buildable lot, the road is already there and size is not an issue because they are not asking for variances. With regard to the Environmental Review Checklist, Items 21C and D have already been addressed and should not be a concern. In response to Mr. Cecil's statement about the Town being "grossly negligent", the Town has taken all the necessary precautions to hire an independent Planning Consultant. Mr. Blakely said that anyone building on Oak would create a nuisance. He has not talked to his clients regarding the hold harmless agreement but would suggest it to them as long as the language is appropriate.

Ms. Hill said that the General Plan stipulates that new homes are required to hook up to MMWD, therefore, the applicants could not use well water. She thought it might be a good idea to do a cumulative traffic study because of the potential for growth in the area. She said it should be noted that staff felt there were potential impacts regarding grading and that the geological study would address these issues. The Environmental Review Checklist was prepared prior to receiving the letter from MMWD, so the checklist will have to be amended to reflect the new information.

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Maryann Cowperthwaite, 121 Oak Avenue, asked if there has been any decision about a water moratorium, and how the moratorium would affect this application.

Paul Nave did not feel it was fair to penalize his project because of the other proposed projects in the area. He questioned why this was not addressed when Robert Yeakey's application was approved.

Mr. Deignan, 60 Oak Avenue, asked if there was an existing water tank in the area that is just to be upgraded? Will they use the existing pad?

Mr. Nave said the tank will be built to the specifications of Marin Municipal Water District.

Commissioner Hayes said it is still unclear what MMWD will require.

Mary Tamley, 951 South Oak, said the minimum water tank is 50,000 gallons. This would be extremely visible for the entire area.

Gregg Gibson, 47 South Oak Avenue, said there is a constant concern about fire in the area and it is important to take measures to keep the road open. He noted that Mr. Yeakey is required to upgrade a portion of the road and hopefully, there will be requirements placed on these applicants to improve the fragile road.

Commissioner Hayes said this area will become a noticeable development in the Town. Although the applicants are only proposing two homes, there is a possibility of 18 future homes in the area and the cumulative effects must be considered. In addition, with the information received from MMWD about the water tank and pipeline, the Environmental Review Checklist does not address this. Therefore, he is uncomfortable with a mitigated negative declaration and recommends a Focused EIR which should address traffic, recreation, geology and the cumulative effect on the environment. With regards to funding, perhaps it could be part of the assessment district for all the individuals involved. If the EIR for the water tank is administered by the Water District, the Town would not have control over it. Therefore he would rather see a focused EIR which also addresses the water facilities.

Ms. Hill said that since there are four applicants that have applied to MMWD, it is possible that the portion of the environmental analysis associated with the water tank and pipeline could be funded by those four applicants since they would be required to fund it anyway by the Water District.

Mr. Nave said if the focused EIR for the water tank is done by MMWD there would be no cost to him.

Mr. Kottage noted that if the Commission elected to have a focused EIR, it would extend the time period of the study, which would then give a clearer picture of what is proposed by the Water District.

Commissioner Julin said there has been precedent for proportioning EIR costs among applicants in the East Bay, either Fremont or Union City and it may be useful to contact those cities.

Commissioner Hayes would not like to see the Town put up the money and have to collect from the applicant.

Commissioner Yarish thought that item 21C of the Environmental Review Checklist might be changed from "maybe"

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to "yes". Also, item 21D, it was his understanding that the work done by the engineers so far designs the drainage system to the edge of the property into an existing culvert but does not look at any potential cumulative flooding downstream.

Ms. Hill said that the answer to 21C is yet to be decided because of the new information presented by the Water District by getting a project description and an amended study. As far as Item 21D, the engineers did runoff calculations for the project. It was her feeling that the increased runoff was not going to be significant enough to cause flooding of downslope areas. However, she did ask for more information regarding detailed drainage plans to ensure that the water will be properly funnelled off site.

Commissioner Yarish's largest concern is the growth inducing impacts including traffic, hydrology and flooding. These would be better studied on a focused EIR.

Commissioner Harle did not have much to add except would like to see the questions answered regarding the fire road. It is his understanding that the other fire road at the end of Oak has been blocked off to hikers. He supported a focused EIR.

Commissioner Julin wanted to take the conservative approach and have a focused EIR. There are questions in her mind that need to be answered. She would like to have more information on traffic, drainage, water, public safety issues, especially fire, rare plants and visual impacts with perhaps two levels of detail; 1. details based on information available with present application; 2. more general information, because there are no additional applications yet, that would address the build out of the property. She would also like to have clarification on who will pay for the focused EIR.

Chairman Sias agreed there should be a focused EIR, noting that a negative declaration would be calling for a conclusion before all the evidence is in. Because there is an application by four property owners for a water tank raises the question of cumulative development. The Commission is obligated to consider the entire neighborhood, not just the two homes in this application. Therefore he would like to see a focused EIR, both during and after construction coming from the cumulative development. There is a question regarding fire protection during construction. There will be at least 450 dump trucks off site for this application, not including those for the Yeakey property and the coming applications. He would like to see the cumulative effects on drainage and the questions of geology and recreation access are items that he would like to see covered. With regard to funding, he would like to see some sharing done. He would like staff to research what was done in the East Bay.

Commissioner Hayes stated he almost overwhelmingly agreed with staff's comments in Attachment "A" of the Staff Report but would like to add that Item 19 should be changed to "maybe"; Item 21B would be inclined to change it to "maybe" because of the water tank; Item 21C should be changed to "yes"; Under Item 14E, said it may be changed to maybe because of the growth inducing impact.

Commissioner Yarish thought perhaps Item 19 referring to recreation could be dealt with through some mitigation measures and not necessarily studied in the focused EIR. Commissioner Hayes said there is a broader issue of access. He agreed it may not be worth someone telling us the obvious but it is an important enough issue that it should be

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addressed. Commissioner Harle said it should be addressed but was not sure it should be part of the focused EIR. Commissioner Hayes said one of the requirements of the focused EIR was consideration of project alternatives and one of the alternatives would be alternate siting. Commissioner Yarish asked if the focused EIR should then look at all the areas of mitigation.

Ms. Hill said this hearing tonight only required the Commission to make a decision on whether a mitigated negative declaration or focused Environmental Impact Report will be required. The terms of the scope are fairly well established in CEQA. Staff will send a Notice of Preparation to all responsible agencies and then go through a scoping process that will determine what is to be looked at in the EIR. Therefore, the level of detail does not have to be decided tonight. She suggested the Commission take a vote and then staff could come back at a future hearing with a scope of issues based on your discussions tonight and also during that time will have input from the Notice of Preparation from the agencies and perhaps more input from MMWD.

Mr. Blakely did not understand why the Commission was changing the boxes on the Environmental Review Checklist after it has already been prepared by the Planning Consultant. His clients could put up a fence around their property and cut off the road but they want to work with the Town and the neighbors. He gets the feeling that his clients are being put off unnecessarily.

Mr. Nave said they have gone through the necessary process, step-by-step and there seems to be continual red tape. He thought the Planning Consultant had done a thorough job and felt the Commission should act on the Negative Declaration.

Andy Bachich said this process has taken two years already and asked how long the entire process will take.

M/S Hayes, Harle, to direct staff to prepare a Focused Environmental Impact Report for PP-11 - Paul J. Nave, Marie Nave and Andy S. Bachich, End of Oak Avenue, A/P 7-201-08 for the proposed two lot parcel split for development of two single family dwellings. The discussion to prepare a Focused EIR is based on the issues as outlined on the Environmental Review checklist with the amendments: Item 14E, Maybe; Item 19, Maybe; Item 21B, Maybe; Item 21C, yes.

All ayes. Motion unanimously passed. The audience was advised of the ten day appeal period.

The special meeting of the San Anselmo Planning Commission was adjourned to the next regular meeting of March 6, 1989.

BARBARA CHAMBERS
ADMINISTRATIVE SECRETARY/TECHNICIAN