

**TOWN OF SAN ANSELMO  
PLANNING COMMISSION MINUTES OF MAY 23, 1994**

The special meeting of the Planning Commission was convened at 8:00 p.m. in the Council Chamber by Chairman Mihaly. Staff present was Planning Director Ann Chaney and Environmental Planning Consultant John Roberto.

**A. CALL TO ORDER**

**Commissioners present:** Hayes, Harle, Sargent, Mihaly, Israel  
**Commissioners absent:** Julin,

**B. CONSENT**

1. Minutes - May 16, 1994
2. **V-9412 - Douglas and Lyn' Sherer, 72 Lincoln Avenue, A/P 6-241-18, a request to enclose an existing front porch that is 12' from the front property line (20' is required) on property located within the R-1 Zoning District.**

M/S Harle/Sargent to approve Consent Agenda. Conditions of approval for 72 Lincoln are as follows:

1. The addition shall be constructed in conformance with the plans date stamped April 1, 1994.
2. The applicant shall secure a deed restriction to maintain this property as a single family residence.

72 Lincoln: Motion unanimously passed.

Minutes: Ayes: Harle, Sargent, Hayes, Mihaly; Abstain: Israel

Audience advised of the ten day appeal period.

**C. PUBLIC HEARINGS-CONTINUED**

1. **V-9411 - Nick Kaeonil, 727 Sir Francis Drake Boulevard, A/P 6-083-07, a design review and parking variance (6 required, 5 provided) to establish a new restaurant on property located within the C-L Zoning District. CONTINUED TO THE MEETING OF JUNE 20, 1994.**
2. **V-9406 - Michelle Chouinnard, 208 Sequoia, A/P 6-114-01, a variance request to: 1) allow the applicant to relocate a spa off the neighbors property to within 1' of the side property line (8' is required); 2) to relocate a trellis and arbor off the neighboring property and be within 0' of the side property line (3' is required); and 3) to allow portions of a fence and trellis to be 9' in height (6' is permitted); 4) to relocate an existing 150 square foot arbor that encroaches 4" on the neighbors property and will be within 0' of the side property line (8' is required) on property located within the R-1 Zoning District. (After-the-Fact) Note: The spa and portions of the fence trellis and arbor currently encroach into the adjoining property. CONTINUED TO THE MEETING OF JUNE 20, 1994.**
3. **V-9414 - John and Maureen Geoghegan, 61 Sais Avenue, A/P 6-074-30, a variance request to 1) increase the height of an existing residence from 19' to 25' that is 12' from the front property line (20' is required); and 2) construct a new carport above the existing driveway that will be 3'6" from the side property line (8' required) , on property located within the R-1 Zoning District. CONTINUED TO THE MEETING OF JUNE 6, 1994**

**D. OPEN TIME FOR PUBLIC DISCUSSION**

**E. PUBLIC HEARINGS**

1. **Oak Avenue Master Plan and Development Agreement - David Hansen APN's 7-154-02, 7-154-05; Michael and Linda Gill APN's 7-154-08 and 09, 7-154-11, William Broderick APN's 7-154-10, 7-201-02, 7-201-12; The project site is located on the northeastern slope of Bald Mountain. It is bordered by Oak Avenue and scattered residential housing to the north and east, and by open space to the south and west. The subject property is comprised of 8 parcels of land totaling an estimated 16.2+ acres. The proposed project, which includes a master plan and development agreement, focuses on buildout of some, but not all, of the properties at the end of Oak Avenue. The proposed master plan and development agreement seek entitlement to construct four (4) new homes, appurtenant structures, and infrastructure improvements. The documents do not include the design level information required by the Town to approve specific homes or any of the other entitlements needed before construction can begin.**

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Michael Gill, Attorney Neil Sorensen, and Environmental Planner Scott Hochstrasser were present.

Ms. Chaney explained the draft resolution as submitted in the staff report as well as some of the items in the Development Agreement from the applicant's attorney. She gave an overview of the conditions. She explained that she needs to do more work on condition #2 regarding the CC&R's. In addition to condition #14, there is another requirement which will be conceptual now but more detailed at the design review stage. Mr. Roberto said his office is preparing the mitigation monitoring plan for the Commission and it will be in a table format.

Ms. Chaney stated that Condition #19 has been done and therefore can be dropped as a condition and Condition #25 is redundant to #21 and can be dropped.

Commissioner Sargent asked how the exotic plants and lawns could be monitored. Chaney said that it will come in at the design review stage and also will be part of the CC&R's

Mr. Roberto talked about the turnaround. He stated the applicant will provide a 45' diameter turnaround, however they are willing to go to 50' if required by the Fire Chief.

Ms. Chaney said they are looking at about \$1,000 or less assessment per undeveloped lot. As money is collected, roadway work will be done, rather than wait until all the money is collected.

Mr. Roberto stated that Condition 8B4 will be revised.

Commissioner Sargent asked which house will be wiped out by Condition 8B3. Mr. Roberto said that a home cannot be built until such time water can be obtained. He added that each homeowner should be treated separately.

Chairman Mihaly stated that the Development Agreements should not be in the conditions, that the conditions should be part of the Development Agreement.

Regarding Condition 8B4: Mr. Roberto has talked with MMWD and in the event that MMWD comes into the area, the owners will be required to hook up to MMWD.

Regarding Condition D1 - Mr. Roberto said that construction for heavy vehicles should be moved down to be included as part of Condition 8D5.

Chairman Mihaly said there is no one place where all the conditions are written. The conditions of adoption should apply to the project. The conditions and the Development Standards and the codes are all now in separate documents and should be condensed into one document.

Chairman Mihaly stated that conditions of adoption are on the exhibits. In summary, he felt it should be clearly spelled out what the Town wants.

Regarding Condition 34: Ms. Chaney stated that she needs to get clarification from the applicant to see if it also includes roadways. Commissioner Sargent wanted to acknowledge that future owners on future lots should also be included in the Homeowners Association. That should be clearly spelled out.

Commissioner Sargent questioned Condition 38 relative to height.

Ms. Chaney said the Bald Hill Committee has proposed wording on the height and visual impact - they should be held to 24' or less but if stepped down the hill the height might go higher.

Mr. Roberto said the mitigation measures restrict the building to the existing pad and limit height to 24' that will limit the visual impact. However, the applicant feels there are options to meet the objects but that may have elements that exceed 24' feet. Mr. Roberto said the envelopes will then be reduced if that is the case. Chairman Mihaly thought the conditions should have both because he does not know what the implications will be until the design is proposed. Mr. Roberto responded that his mitigation measures restrict the building to the pad, with a height not to exceed 24'. However, in the alternative there is different language but the decision is made at the time an application is submitted. CEQA dictates that height limit must be addressed now.

Chairman Mihaly excused himself from the rest of the meeting at 9:25 p.m.

Commissioner Israel said he likes the wording as Mr. Roberto now has it. He was however troubled that the retaining walls would be restricted to lamp black; there are many other colors that can achieve these colors to be used that blend with the environment. He was uncomfortable approving the building envelopes without having adequate maps as well as adequate landscape maps.

Regarding trails Exhibit E: Ms. Chaney said there are two trail accesses; one is Oak Avenue and the other is the upper end of the Steep Trail (the non Oak Avenue trail). She said that the wording of the Interlocutory be lifted and included in this section.

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Ms. Chaney stated the applicants are proposing to place a gate just above So Oak. The Commission should discuss this

Regarding the financing of improvements: An Assessment District will be set up to pay for sewer street improvements etc. for future development.

Commissioner Hayes ask the procedure for the Development Agreement. Ms. Chaney said that Mr. Roth has suggested that the Development Agreement be adopted by ordinance and the conditions be adopted by resolution. However, the conditions should be incorporated into the Development Agreement.

Commissioner Israel suggested that the Town Attorney be present at the next meeting. He also asked about lot 2. His concern is the placement of that building envelope as far up as it is, requires the longest possible driveway, the most cut, most tree removal, and pavement to drain. It also takes the building envelope up to where the trees thin and the land flattens. He does not think it is the optimum place. Mr. Roberto agreed that it is the least steep area, with the least amount of trees. If the objective is to reduce the driveway, it should be brought closer to the common driveways. However, this place is stable and he is not sure about the landslide conditions between the pad and the driveway. He said the location can be mitigated however, his study did not look at another location. Commissioner Israel asked if staff could look into this. He wants to make sure that the best location is chosen prior to the design review stage. Mr. Roberto said if there are better mitigations that make the project less of an impact.

Ms. Chaney stated that perhaps alternative locations for houses might be looked at on the Hansen property.

Commissioner Israel wanted additional wording that states "... any trees that are to be removed are to be relocated on the site or offered on a one-to-one basis rather than a 4 to 1 replacement."

Commissioner Hayes said there are issues on the Development Standards that he is not comfortable with; the 10 year options, the Town's ability to fend off legal action, questions about access, and designing the improvements. He wondered what the public process for Oak Avenue was.

Ms. Chaney explained the ten year/ten year agreement. The applicants wanted assurance that the rules will not change on them during the next ten years. It will lock in all the Towns Codes and requirements. Therefore, if various codes change in the interim, they will not apply to this project. Commissioner Hayes said he was uncomfortable with that length of time.

Neil Sorensen's comments concentrated on the draft conditions. Mr. Gill and other applicants have hired Mr. Wood as their botanist as well as a company to do a spotted owl survey. The determination is that there are no spotted owls in the area. It is consistent with the survey on the Fraser lot. He had the following comments on the Conditions as proposed in the Draft Resolution:

Condition 1: He was concerned about the second sentence with respect to infrastructure. They did not think they needed to have a Precise Dev plan for the off site improvements.

Condition 17, page 4: The parcel number of 7-154-02 should be added. Regarding Condition 19 and 20: It should be deleted because the study has been done and the spotted owl is not an issue.

Condition 24, last sentence: This deals with the new driveways, not new roadways." Therefore "roadways" should be changed to "driveways". Also the initial study said some trees are to be removed.

Condition 29, page 7: Their concern is that it includes the removal of trees however future removal of shrubs in the inventory are those over 6". The detailed fire protect plan has a lot of specific items that go against the fire management plan from Condition 29.

Condition 30: They are unsure of the \$10,000 and what it is to be used for. There should be more specific wording.

Condition 32: They have no objection to the substance - they should bond or should build prior to the final map. Therefore, wording should be changed.

Condition 33 A6: The easement allows the Town to enforce parking, therefore the three on site parking spaces should remain flexible; this should maybe be looked at as a goal - depending on how the police are able to enforce it.

Condition 33A10: - He suggested alternative wording as follows: "Approximately 40' west of 406/410 Oak Avenue there is an unpaved area that should be paved as a turn-out".

Condition 33C4: There is a conflict; it should be South Oak up, not below South Oak Avenue.

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Condition 33D1: He objects to damages for non compliances - this was not in the Fraser plan and inappropriate in this plan.

Condition 33E2: Development Agreement locks in codes in affect at time of agreement, not things in the future. Wording should be changed to say " ...in affect of time of Development Agreement."

Condition 37: Same as 33E2

Mr. Sorensen said Mr. Roth has reviewed the Development Agreement. The revised Development Agreement has not been discussed with him however he does concur that the conditions in the resolution should be placed into the Development Agreement. He is not prepared to discuss the Development Agreement yet to specific wording until he meets with Mr. Roth.

Commissioner Hayes asked when the next draft will be available: Sorensen said within the next few days. Ms. Chaney confirmed that it would be available for the June 6th meeting. Regarding the 10/10 - Mr. Sorensen said that came out of the legal agreement bit the Town has not responded to it yet. He also said that property development does not always happen during the time they want and because of economic times that is the reason for the ten year guarantee. Mr. Sorensen said that life safety issues are exempt.

Commissioner Hayes wanted to ask Mr. Roth the questions re 10/10. Hayes asked about limited public access. Sorensen said most of that is spelled out in the lawsuit and the judgement of the court. Sorensen said the property owners have already given a consent to use: at the end it will be an easement. Hayes asked for a copy of the judgement for the next meeting.

Commissioner Hayes wanted more information on the location of the gating. Chaney said the intent is for the trail access was not to allow for vehicles, this was brought up in the Bald Hill mtg. He wanted clarification on the party to the lawsuit from Hadden.

Scott Hochstrasser, talked about the turnaround - they designed 45' to meet the General Plan and will leave a balance of cut and fill. It is the smallest they can get but still operates as a hammerhead. The existing location is the best for the building envelope and driveway and heavily constrained. Mr. Hochstrasser said they have picked the location of the site because of minimal grading and the site is circled by heritage trees and few, if any, will have to be taken out with only two for the entire length of the driveway. The lot is a compromise, minimal tree loss, and protection of view and grading. A house can be placed without significant visual impact. The plan is a schematic plan, a large building envelope that has been done in a conceptional way. They feel the topo maps are very accurate. There is also ample space to locate the buildings very sensitively.

Mr. Hochstrasser thought that there was inconsistency with Conditions 5 and 6 regarding the height. There were two issues regarding Condition 38A: He wanted to know how high off the ground and what point off the ground is used? Table 4a: of the Zoning Ordinance is very specific. The Code specifies the height can be 30' unless you are in an area of 25 percent slope, you can go up to 35'. This is very clear in the Code. There is no need to redefine this. They want to have the option of proving to the Commission the ability to build up to a 35' house. To build houses on the pads and to include parking, the pad or the parking will be brought out and become more visible. He wanted to eliminate Condition 6 and modify 38B. He suggested the following wording: "..... building heights shall be limited to those permitted in the Town of San Anselmo Development Standards Table 4A. However on APN No. 7-154-02- and 7-201-02, the buildings located on the existing pads shall be limited to a maximum of two stories to minimize visual impacts". That is consistent with the findings of the report. He also would like to have 38B eliminated and modify it as follows: "All approved lots shall comply with the mitigation design guidelines specified in mitigation 4B that the project mitigated negative decleration..."He said that on page 12, A, 6th line "...size of building envelope may be limited.." - should be eliminated.

Commissioner Israel is reluctant to sign off on the existing pad when there might be an alternative location. He asked if this could be changed at the precise development plan stage. Mr. Hochstrasser said that there will be no movement for change at the precise development plan. There has been some very detailed environmental study performed on these pads. The envelope is approx 20,000 square feet. Commissioner Israel said he will give resistance to approve without the possibility for change in location.

Mike Gill explained that the pads only relate to the Broderick parcel. It would be difficult to move off the pad without meeting other criteria. He wanted to discuss the gate. The idea of the gate is not to infringe on the people accessing the trail. There are people who drive up there and they only want to mitigate the concern. The owners are flexible on the location of the gate. Commissioner Sargent asked what the Fire Departments comment is on the gate. Mr. Gill said there is a gate now that the Fire Depart and MMWD have keys to and access the Hansen property.

Commissioner Sargent said the major issue to him regarding a gate is that during the fire in Oakland people panicked and the gate could be a problem for getting out during a disaster.

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Tom Young, Tiburon, said he was asked by the Seminary to attend the Planning Commission meeting. The Seminary owns property across from Bald Hill which has a substantial spring and goes to the Seminary grounds. They are concerned about the possible build out of the wells and want that explored.

Kathy Sanders, 310 Redwood Road, was comfortable with the heavy construction vehicles using the roads during 10:00 a.m. to 3:00 p.m. She does not advocate a gated community and asked if the Town maintains the paving beyond the gate. She understood that a gate may be needed to restrict vehicles; She had three personal points: She asked about the enforcement of the Development Agreement and conditions. She asked about the design of the gate and felt should not be intimidating and would like to see the design and the signage. Finally, there are a lot of unanswered questions regarding this project and wondered if it could be slowed down and continued in good faith if necessary.

Curtis Brown, 600 Oak, has observed all the traffic in the area. He lives across from the Hansen property and there has been a problem with cars. Cars park in his driveway, people park by the gate at all hours of the night. The current gate also creates a trash problem. Therefore, he did not want the Commission to underestimate the extent of the problems of the gate and traffic.

Mark Watson, 500 Redwood, said his primary concern is the surface runoff. His drainage system has over flooded because of the 25 South Oak project. His driveway is now ruined. There are problems with the Conditions regarding drainage. He suggested that a drain be put in so water cannot flow onto Oak Avenue - perhaps a grate with a french drain. Regarding the gate, he felt the problems will be pushed farther down the road and there will be added traffic when the lawsuit is completed. During construction, the fumes from roadwork will be a problem and they want to know when it will happen. With regard the roadway bond, the road will experience cave-ins because of the trucks etc. Also, the drainage plan needs to be further developed. With regard to off site improvements on Page 9 and the 15' roadway standard - if it is not dealt with it will just wash his driveway away. He is proposing to abandon his lower driveway and wants to access his property off of Oak Avenue. He is willing to develop the drainage at the top of his driveway.

Jonathan Braun, 479 Scenic, complimented John Roberto on the environmental review. Regarding fire protection and extensive pruning, he felt it would mean considerable assault on the trees and if done improperly could ruin trees. All work should be done by a licensed contractor. Regarding page 7, measure 29, this is contradictory from arborists - in that it can encourage the growth of fungus. Also, given the fact that the two property owners signed off on limited access easement - what about the others? Have they been a part of the agreement - this should be approved prior the approval of the master plan. With regard to lot 2, he sees a potential problem and wonders if it can be extended to the lower area.

Mr. Sorensen explained that when a development agreement is approved all owners would sign the easement.

M/S Hayes/Sargent to continue to June 6th. All Ayes.

Commissioner Israel asked what the options are if they cannot approve the project by June 6th. Ms. Chaney stated take more time will be allowed and the staff person will be Lisa Wight as well as the Town Attorney.

**F. GENERAL DISCUSSION**

There was none.

**G. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL**

There was no discussion.

**H. ADJOURNMENT TO THE REGULAR MEETING OF June 6, 1994**

The regular meeting of the Planning Commission was adjourned at 12:00 a.m. to the next meeting of June 6, 1994.

BARBARA CHAMBERS