

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES FOR NOVEMBER 6, 1995**

The regular meeting of the San Anselmo Planning Commission was convened at 8:00 p.m. in the Council Chamber by Chairman Israel. Staff present was Planning Director Ann Chaney and Associate Planner Lisa Wight.

A. CALL TO ORDER

Commissioners' present: Harle, Mihaly, Sargent, Wittenkeller, Duys, Israel, Hayes

Commissioner absent: None

B. CONSENT

1. Minutes - October 16, 1995

2. V-9539/DR-9522/U-9508 - Donna Oldford GTE Mobilnet, 305 San Anselmo Avenue, A/P 7-282-20, a use permit, design review and variance to install nine (9) panel antennas measuring (4'x1') on the penthouse of the Bay View Federal Bank Building to establish a cellular phone site at this location. A variance is necessary because the existing building exceeds the 30' height limit on property located within the C-2 Zoning District.

M/S Harle/Duys, to approve the Consent Agenda. All ayes. Conditions of approval for 305 San Anselmo are as follows: 1. The following project is approved subject to the plans date stamped received by the Planning Department, July 13, 1995; 2. The applicant shall adhere to all of the safety precautions listed in the report prepared by Hammett & Edison, Inc. dated September 21, 1995. 3. That if this development which has received discretionary approval has not begun within one year from the date of the final action, the permit shall become null and void. However, this discretionary action may be renewed by the Planning director for a maximum period of one year provided the applicant places such request in writing to the Director showing good cause prior to the expiration on the discretionary action.

Motion unanimously passed. Audience advised of the ten day appeal period.

C. OPEN TIME FOR PUBLIC DISCUSSION

No one spoke during this time.

D. PUBLIC HEARING WITHDRAWN

1. U-9506/DR-9512/V-9527 - Warren Perry, 100 and 120 Sir Francis Drake Boulevard, APN's 6-241-01 and 6-241-02, 1) Design Review, 2) Use Permit, and 3) 14 space Parking Variance (24 spaces required; 10 provided on-site; 13 shared with adjacent use) to construct a 10,320 square foot, 22'6" tall, warehouse storage facility (4,950 square feet existing -formerly Crocker Bank building). NOTE: The applicant indicates that it appears the storage use is not going to be pursued. The scope of a new project is unknown at this time and may or may not require discretionary permits. If discretionary permits are required, renoticing will occur on property located within the C-3 (General Commercial) Zoning District.

E. PUBLIC HEARINGS - CONTINUED

1. Environmental Review/PDP-9501/V-9541 - Jack Hunt, Between 41 and 43 Tomahawk Drive, A/P 177-250-31, 1) Environmental Review, 2) Planned Development Permit, and 3) Variances to ultimately construct a single family home with access via a long driveway off of Tomahawk Drive. A Variance is required to construct a 450' long retaining wall (maximum height of 7') within 3' of the north side property line (8' required) and within 3' of the front property line (20' required); and to construct a series of retaining walls totaling 251' long (maximum height of 9') within 2' of the south side property line (8' required). These retaining walls are proposed for the driveway and parking area and deck. Design Review for a specific house design is not part of this application. The property is located within the R-1-H Zoning District. CONTINUED TO THE MEETING OF 12/18/95

2. PDP-9505/Parcel Split - 9503/V-9549/DR-9525 - Carlos Castro, 444 Redwood Road, A/P 7-191-10, 1) a precise development plan, density determination and design review to subdivide an existing property currently developed with a single family residence in order to construct a new house; and 2) a variance to allow an access easement through the existing driveway that services the existing residence at 444 Redwood and the proposed new parcel, on property located within the R-1H Zoning District. CONTINUED TO THE MEETING OF 11/20/95

3. Environmental Review/Z-9504/GPA-9503, Shelagh Kew Barker, 1108 Sir Francis Drake Boulevard, A/P 6-031-09, 1) Environmental review; 2) Amendment to the General Plan Map. The current General Plan land use designation for this property is Single Family. This designation would have to be changed to Medium Density; 3) A variance to Footnote 4 of Table 4A of the Development Standards; and 4) Rezoning from R-1 (Single Family Residential) to R-2 (Two Family Residential). CONTINUED TO THE MEETING OF NOVEMBER 20, 1995

F. PUBLIC HEARINGS

1. Environmental Review/DR-9516/V-9551 - Sarita Patel for George Lucas, 133 Essex Street, A/P Nos. 6-121-21 and 6-161-01, 1) Environmental review and design review of a development project for a single family dwelling (including a tennis court, retaining walls, grading, alteration of a portion of a ravine to a meadow, a bridge over Ancho Vista Avenue and landscaping); and 2) a setback variance for a bridge and stairs to be within 0' of the east side property line, on property located within the R-1 Zoning District.

The applicant, his Attorney Doug Ferguson, Landscape Architect Patrick Whisler, Civil Engineer Larry Doyle and Biologist Roger Harris, were present.

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Chairman Israel abstained from this item due to a business conflict and turned the gavel over to Commissioner Sargent.

Ms. Wight noted that late mail was received today and staff has not had an opportunity to review this mail. The mail is from Nancy Morita and Michael Emery of 6 Cypress on behalf of the Concerned Citizens of Sequoia Park; Urban Creeks Council of California, Marin Audubon Society, and California Regional Water Quality Control Board. Staff stated that the Regional Water Quality Control Board has jurisdiction over this project. Staff asked the Commission for direction as to whether or not to continue this project until staff and the Commission has time to evaluate the late mail more carefully.

Commissioner Sargent polled the Commission on whether to continue or to hear this item based on Staff's comments.

Commissioner Mihaly said that even though the Regional Water Quality Board has jurisdiction, the Town has Environmental Review responsibility. He asked staff about their views on this project.

Ms. Wight said she spoke with the Regional Water Quality Board on Friday and although they will not necessarily oppose the project, they do not yet have sufficient reasons as to why the ravine is to be covered up.

Commissioner Mihaly wondered if perhaps the order in which this application is heard should be thought out carefully between the Regional Water Control Board and the Town.

Douglas Ferguson, Attorney, said the CEQA review has to happen and then the Army Corps of Engineers turns to the Regional Water Control Board. In summary, the Town must take action first.

Commissioner Duys said there are a number of people in the audience and it would be worth hearing what the audience has to say.

Commissioner Harle would like to hear from the audience and have the Commission take action.

Commissioner Wittenkeller thought it would be a disservice to the community not to hear the public testimony.

Commissioner Hayes wanted to hear from the community.

Ms. Wight presented the staff report, explaining the current proposal.

Commissioner Mihaly asked about the water course. Ms. Wight provided a description and a copy of the Town drainage map. She also indicated the location and height of the retaining walls on the property.

Patrick Whisler, Landscape Architect, explained the proposal. There is 476 feet of drainage course and the original proposal was to fill 85% of that drainage course however that has been reduced to 88 feet. He explained the type of vegetation on the site. He has submitted a construction management plan as well as a design of the bridge, retaining walls and the driveway, including a biological report of the site. Modifications to the plans are a reduction of fill, reduction to the side of the tennis court and house, and they have lessened the amount of retaining walls, removed the wood fence, and the south side of entry road has been established.

Mr. Ferguson stated they have tried very hard to address the neighbors and the Commissions' concerns and based upon that they have tried to eliminate all the problems. The only concern that has not been eliminated is the bridge over Essex. The new application proposed is to replace a 4,000 foot home to a 975 square foot home, correct the drainage problem and contribute a share to the Town in improving the drainage problem on Red Hill Avenue. They are proposing to remove the current new fence and replace it with a fence that will not be seen, reduce the amount of trees that were originally scheduled to be removed and replace them with several new trees. Regarding the environmental concerns, there are only three main categories. One is that there will be noise during construction. As Staff states, we will adhere to the Construction Management Plan that was submitted September 22, 1995 which addresses hours, equipment, traffic control, neighborhood communication, dust, winterization, construction parking, construction facilities, and clean-up areas. The other category of concern is the bridge. The Staff Report includes a picture of the bridge. The original picture had lattice over it; this has been removed because the neighbors objected. The last area of concern is the issue of the ravine and the water that flows down the property. They do need the Commission to act on this issue prior to a decision of the Regional Water Quality Board. He is not sure the Army Corps of Engineers does have jurisdiction over this issue. He noted that the Town Staff has recommended that the Negative Declaration be approved. He said that they have submitted mitigation measures for any potential problems.

Mr. Ferguson stated that the concerns being addressed regarding the culvert should be clarified. This is a residential property that had a house on it at one time. The original proposal was to link the two drainage systems. They have reduced it to a balanced cut and fill, which has reduced the number of truck loads. He said that he has had conversations with the specific environmental agencies and although the agencies were not happy about the project, they were not opposed to it. He said that they have designed a culvert system that will have flood control and a meadow for the Lucas family, as well as trees and vegetation for the neighborhood.

Mr. Roger Harris, LSA Associates, explained that pre-field work was performed as to what would be on the site and accessed a data base from the University of California, Berkeley. They next did a site assessment, looking for the habitat value of the species. They were looking for special status species, or endangered species. There is no habitat for spotted owls on the site. They also looked at special habitat in Marin County and wetland species, and did not locate any of those. In conclusion, the new proposed use would be no different than the current use and the cumulative impact would not change. They then looked at regulatory issues.

Commissioner Sargent asked what the difference would be to the habitat with the net increase of 117 trees. Mr. Harris said his assessment they are not talking about wildlife habitat but rather urban habitat.

Mr. Harris explained that the drainage on this site does not carry water all year long, it only carries water after a storm. The site has been viewed by the Fish and Game and they have approved the

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project. The substantive issue is "Can the project mitigate in terms of the Clean Water Act?" Mitigation measures are the check dams in the drainage system, which are being proposed.

Commissioner Mihaly asked what they have to add to satisfy the concerns of the Regional Water Quality Control Board. Mr. Harris said that the California Division of Fish and Game brought out wildlife professionals and they specified that check dams should be installed, 1'-2' high and constructed of rock.

Commissioner Hayes asked what the definition of "creek" was in the General Plan. Ms. Chaney said they would be the known CEQA terms as have been stated by Mr. Harris.

Mr. Harris said a storm water discharge program would not be required because the site is less than 5 acres. The project can be mitigated as proposed with no net loss. The main concern about removal of vegetation during construction can be mitigation with erosion control.

Mr. Ferguson added that he contacted the Audubon Society and the California Regional Water Quality Control Board and they expressed their concerns on the project without knowing what the entire application was. After he presented the agencies with information on the entire project they no longer seemed opposed to the proposal.

Craig Herzog, Soils Engineer, said they performed test borings on the site. They found bedrock at 1 foot, and any water will find its way down the channel. He stated that with any drainage there is normally some ponding or a leeching effect, and neither apply on this site because there is bedrock.

George Lucas explained that he lives on the adjacent property. His neighbor sold this property to him about five years ago and he wanted to be able to install a tennis court. He wanted to make the meadow as usable as possible as well as solving the drainage problem for the neighbors. Ancho Vista is a very busy intersection and he was concerned about the welfare of his children, therefore he recommended a bridge across the property. He stated that they were over ambitious when the project was first designed but has listened to the concerns of his neighbors. It is hard to see that animals would be affected. It is also very hard to keep the water out without keeping the culvert and therefore felt the culvert is the most efficient way to solve the drainage issues. His experts stated that controlling the creek and controlling the drainage problems seemed to go hand in hand. He said that he is also very concerned about protecting the environment.

Commissioner Wittenkeller asked about the narrow approach to the meadow and asked if it would be possible to maintain the existing open ditch and extend the bridge over this area. He wondered if another culvert could be designed to take care of the flooding downstream..

Larry Doyle, Civil Engineer, addressed the drainage issues. He said there is a 24" culvert on the adjacent property and this condition is not very good. They tried to put pressure on the pipe, to build up the pipe to be able to accommodate a 10 year storm. They did not want flooding to occur behind the culvert because that could cause erosion. For that reason they want 88' of pipe.

Commissioner Wittenkeller asked about the 25 year storm and the effect on the culvert. Mr. Doyle said they control water going down the 24" pipe with a stand pipe.

Phil Barradet, 24-31 Buena Vista, is in favor of drainage improvements because it would have a favorable impact on him. It should be noted however, that the creek is dry during the summer but becomes a river during the winter during storms. In terms of the meadow, since the removal of the house the water course has changed; the water has been seriously increased. He is in favor of the project.

Seamis Kilty, 60 Essex, stated that a fence separates his property and the applicant's property and he would like the Commission to consider an opening in the fence on his property, or lowering the fence, to allow deer to pass through. Regarding energy and utilities on the EIR - the landscaping proposed will have a vast increase of water and high consumption trees such as redwoods would need a lot of water. He would like to see this property develop a well for irrigation.

Bob Leedy, 65 Sequoia, is in support of the concerns of Ms. Morita. He would like to see a focused EIR because of the size of the project. The Fish and Game states that bridges are better than culverts because of erosion. The biology report is inadequate because the rules of endangered species was not followed. He would therefore like to see a focused EIR.

Sophia Spencer, 18 Jordan, has walked the area for many years. She is concerned about the water for the animals, even the smaller ones. There is a desire within the community to keep the wildlife in San Anselmo.

Bob Hogan, Marin Audubon Society, has reviewed the Negative Declaration and is glad to see the items reduced but would recommend that natural creeks and drainage be retained. An opening in the fence should be provided to allow wildlife to go through. He referenced the letter from the Marin Audubon Society, dated November 6, 1995, addressed to the Planning Commission and signed by Barbara Salzman, Chair.

Charles Mahard, Manager, Ancho Vista Apartments, has walked the site many times and when it rains the water comes down the hill and fills with silt into the parking lot and the culvert raises quite fast. The culvert at the bottom of the ravine has a catch basin which does back up. He said that Ancho Vista Avenue has lots of pot holes and feels it is caused by the water coming down stream. In terms of enjoyment of the creek, he loves it but understands the need to control the drainage. He felt the animal life will still get water upstream.

Katie Hogan, 20 Park Way, felt this project needs a focused EIR because of the water issues, and plant life. She had several questions that still needed to be addressed. They were: 1. Are the flora and fauna native to this ravine? 2. Are the water issues surrounding the massive altering of existing topography? 3. Is the project in conformance with the General Plan?; 4. Are variances required for the retaining walls? 5. Is the proposed bridge to be granted by easement or use permit?

Ms. Hogan wanted to know what findings could be made to grant the variance and she wondered how the Town could grant an easement for the bridge. What are the fire restrictions for this property?

Nancy Morita, 6 Cypress, said this is a heritage woodland. The oak woodland is there as well as a living creek and a spring. There are pools of clear water in the creek, nearly year round. There are laws that protect endangered species. The plant survey was incomplete because it was conducted at

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the wrong time of year; The spotted owl is within this area. The San Anselmo General Plan protects creeks and vegetation and the banks. There is also a tree ordinance to protect heritage trees. Some of the trees on the plan are incorrect and are notated in diameter, not circumference. She is concerned about protection of the trees at the root area. She is specifically concerned about those trees by the retaining wall. She would also like to see openings in the fence to allow animals to pass through. The creek is not the reason for flooding, where it goes from a culvert, it goes with more speed. She encouraged the Commission to look upstream to solve the problem. All the drainage lines seem to move into one point. She felt that the area has a natural drainage.

Jeff Idd, 19 Cottage Avenue, wants to know what will happen to this property if Mr. Lucas is not allowed to proceed. He personally thinks that with some mitigations, the process should go forward. The area is a traffic route for wildlife but he questions calling the creek a creek, it is dry as a stone, but in the winter, it is a river. His concern is the construction vehicles on Miracle Mile. Mitigation measures should take place to prohibit large construction vehicles during commute hours. He suggested 9:00 a.m. to 3:00 p.m.

John Walters, Friends of Corte Madera Watershed, said they require a focused EIR take place if the stream will be changed to a ravine. He read the letter dated November 1, 1995. He wanted to add that if their questions are the same as other letters, they are all expressing the same concerns.

Michael Emery, 6 Cypress Avenue, is concerned about the amount of cut and fill and the amount of dust. He showed a picture of the creek in September 1995 which had salamanders in it. There were two natural ponds that have been filled and that is why there has been more flooding.

Judy Leedy, 65 Sequoia, wanted a focused EIR for reasons stated by other speakers. She wondered why the applicant must fill in the ravine at all. They could get a foot bridge instead of the proposed bridge. She said having a bridge across the roadway will change the character of the neighborhood. The construction hours as proposed 8:00 - 5:00 would be very difficult for the neighborhood. She would like to see the hours changed to 4:00.

Mr. Doyle said all the fill will take place upslope.

Mr. Ferguson said that he hoped the neighbors would take the time to read the Construction Management Plan. The testimony should be relied on by LSA. Also, the road is a private subdivision road and both parcels on either side of the road is owned by Mr. Lucas. He has discussed the matter with Mr. Roth the Town Attorney about the bridge but did think that a variance would be required.

Ms. Wight stated that the Town Attorney agrees with the assessment of Mr. Ferguson.

Commissioner Mihaly said he could support the project based on Staff's conditions of approval on as well as the following conditions that there are holes in the fence for the deer to pass through, limitations on truck traffic, and approval from the Army Corps of Engineer. His biggest concern is the discrepancy of the stream and natural oak woodland. He wondered what to do about the mixed testimony. He wondered if the retaining walls and grading should be reduced. He does not know what to do about the drainage. He thought the bridge in this situation is not a bad idea but a trade off could be five houses on this site.

Commissioner Duys asked about the plant study being done during off season.

Mr. Harris stated that one of the things they looked at were the special plants that are important and endangered. There were no plants that they could detect. If the endangered species were there, they would monitor it over a period of time, but they did not feel it was necessary because they did not exist. No salamanders were noticed but they did not discount the fact they could be found.

Commissioner Harle supports staff's conclusions in general but is concerned for wildlife and would like access for deer through the fence. Regarding the creek, he said part of the problem is the property is very large and each person that spoke feels they have some stake in the matter. Actually they are talking about only 88 feet of culvert. Development on regular lots have had 30'-50' of drainage and this is not an unusual situation. This project has been handled very sensitively for managing the drainage concerns. He also thought the bridge was justifiable.

Commissioner Wittenkeller said that the Town feels Mr. Lucas is a good neighbor and wants to accommodate him. His concerns are that the proposal to stay out of the creek. He would like to see the bridge raised 6" to accommodate future road paving that the project be reviewed by other agencies; and that the project provide for animals. He would like to see a detailed landscape plan and how they can work with the walls. Also, there should be a drip irrigation system or some irrigation plan.

Commissioner Hayes thought the issues were the coverage of the water way and the reduction of down hill flooding verses the environmental impacts. He wanted to know how often the flooding occurs. There was testimony that flooding occurred 4 times this year and floods through the parking lot of the Ancho Vista apartments down to Red Hill. There was also testimony that the drainage improvements will take care of a 10 year storm.

Ms. Wight explained that the 24" pipe will feed into the 14" pipe which will eliminate flooding on Red Hill.

Commissioner Hayes asked about the tree removal. Mr. Whisler said 15 gallon trees will be added, some 24" boxes around structures, but more trees will be added then removed.

Commissioner Hayes asked how visual the retaining walls would be off-site. Mr. Whisler responded that they have done an analysis and the retaining walls will not be visible, only the top of the house would be visible to Red Hill.

Commissioner Hayes said this is only a small house with a tennis court in the location of where more homes could be built. With respect to CEQA the Commission has to make a decision on the mitigation areas. He only has one concern and it is the water way issues. What is really being proposed is an 88' pipe up the hill, and not really a stream. As a result, he feels less strongly about the water way issues. He does not see any value in removing the bridge and taking away rights from the applicant, and all of the impacts are on site are of no impact to the neighbors. With regard to design review, he wondered if the tennis court will be lighted.

Mr. Whisler responded that there will be no lights on the tennis court.

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Commissioner Hayes wondered if the applicant would be willing to raise the bridge to 14'. Mr. Whisler said they could go 14'.

Commissioner Mihaly asked staff about a recommendation as to whether this proposal helps down hill flooding, or if other mitigation measures could be found.

Ms. Wight stated that the Town Engineer has talked with Mr. Doyle and they are in agreement with the proposal.

Mr. Doyle said the intent is to increase the head of the pipe to allow the pipe to be more efficient.

Commissioner Sargent expressed appreciation to the applicant to satisfy the community. The plan has been substantially changed. The issues are very different than other applications. The bridge is not an issue from a legal standpoint. The habitat issue can be resolved to open the fence; the construction impact is important but has been taken care of. The height of the retaining walls is his major concern but are allowed and a variance is not required for them. The Fire Department will review the fire hydrant requirements. Most of the community is in agreement with the proposal with the exception of the area of the drainage. He wondered if the applicant could find a more natural solution for the specific area.

Mr. Ferguson addressed the question of whether the flooding can be mitigated. The Town Engineer and the applicant's engineer have concurred that this is the most viable solution. He said a benefit of this project is flood reduction. The question is whether the pipe should be covered or uncovered.

Mr. Doyle responded to the question about the drainage location and how to take care of the flooding. He said they had to create a dam behind the 24" pipe and their proposal is to carry it into a 36" pipe. The debris area can be cleaned but the same amount of water will not be able to go through the pipe because it is too small.

Commissioner Harle wondered how important the little bit of meadow was to the applicant. Mr. Lucas said he felt it was important and is not something that will be seen.

M/S Mihaly, Sargent to approve the Negative Declaration.

Ayes: Wittenkeller, Hayes, Harle, Duys, Mihaly, Sargent

Abstain: Israel

Motion carried. Audience advised of the ten day appeal period.

M/S Mihaly/Sargent to approve Environmental Review/DR-9516/V-9551 - Sarita Patel for George Lucas, 133 Essex Street, A/P Nos. 6-121-21 and 6-161-01, 1) Environmental review and design review of a development project for a single family dwelling (including a tennis court, retaining walls, grading, alteration of a portion of a ravine to a meadow, a bridge over Ancho Vista Avenue and landscaping); and 2) a setback variance for a bridge and stairs to be within 0' of the east side property line, on property located within the R-1 Zoning District. Approval is based on the findings and conditions in the staff report with modifications.

Commissioner Mihaly stated the reason for his motion comes down to the drainage improvements. There has been a credible discussion and arguments, but the benefit of it seems that drainage improvements for the downstream neighbors is greater than the under grounding of a portion of the ravine.

Commissioner Hayes stated that there is an existing culvert up the creek and the applicant has made provisions for the wildlife.

Commissioner Sargent does not want to see five houses on the property and felt that this proposal is very benign.

Commissioner Wittenkeller did not think that the marginal difference the EIR would make is not worth the time nor the expense.

Commissioner Hayes did not think an EIR was warranted.

Conditions of approval are as follows:

Variance:

1. Due to special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the controlling zoning ordinance or regulation deprives the property of privileges enjoyed by other property in the vicinity and under an identical zoning classification, and the granting of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. The special circumstance applicable to the property is the location of the bridge over the roadway. The applicant owns parcels of land separated by Ancho Vista Avenue. The bridge is proposed to provide pedestrian access between the two properties without using the street. The street is narrow and winding, and visibility in this location is reduced. The applicant has designed the structure to place the stair structure in conformance with the code required setbacks; however, it is not possible to conform the bridge span itself. The granting of this setback variance will not be a grant of special privileges because such a variance would be necessary in other situations as well. 2. The granting of the variance, under the circumstances of the particular case, will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be detrimental to the public welfare or injurious to property or improvements in such neighborhood. A photo montage is included in the "Supplemental Information" provided by the applicant. The bridge will be kept to a minimum height, will not be covered, and provide a 13'8" distance between the road surface the bottom of the bridge. The bridge should not affect adversely the health or safety of persons or be detrimental to the public welfare or injurious to property in the neighborhood.

Design Review:

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1. *Is functionally and aesthetically compatible with the existing improvements and the natural elements in the surrounding area;* The improvements will be functionally and aesthetically compatible with the existing improvements in the area. 2. *Provides for protection against noise, odors, and other factors which may make the environment less desirable;* The addition will not cause permanent noise, odors, or other factors which may make the environment less desirable. The tennis court may generate noise while in use, but it will be typical residential noise. A construction management plan has been prepared by the applicant and accepted by the Public Works Director. 3. *Will not tend to cause the surrounding area to depreciate materially in appearance or value or otherwise discourage occupancy, investment or orderly development in such area;* The project will not tend to cause the surrounding area to depreciate materially in appearance or value or otherwise discourage occupancy, investment or orderly development in the area. 4. *Will not create unnecessary traffic hazards due to congestion, distraction of motorists, or other factors and provides for satisfactory access by emergency vehicles and personnel;* and The project will not create unnecessary traffic hazards due to congestion, distraction of motorists, or other factors and will not impact satisfactory access by emergency vehicles and personnel. 5. *Will not adversely affect the health or safety of persons using the improvement or endanger property located in the surrounding area.* The project will not adversely affect the health or safety of persons using the improvement or endanger property located in the surrounding area. The approval is based on the following conditions: 1. The Geotechnical Investigation prepared by Herzog Geotechnical dated May 25, 1995, and updated September 26, 1995, shall have a peer review. The applicant shall conform to all the recommendations that are determined to be acceptable by the Public Works Director. 2. The wood fence along Ancho Vista is to be removed. In its place, will be a 2' high wood retaining wall with a black vinyl coated chain link fence to extend no higher than 6' above the adjacent roadway. This fence is also proposed to be jogged into the property in 4 locations: 1) near the north property line above the ravine near 117 Sequoia Drive (a cluster of bay trees will be saved as a result); 2) near the intersection of Rustic Lane and Ancho Vista; 3) along Ancho Vista Avenue, just north of the proposed bridge; and 4) south of the proposed bridge (eliminating the lower 48' of the existing redwood fence). 3. Construction shall adhere to the Construction Management Plan dated September 22, 1995, and ammended by the Planning Commission on November 6, 1995. This Plan addresses hours, equipment, traffic control, neighborhood communication, dust, winterizaton, construction parking, construction facilities, clean-up area, and general conditions. Heavy trucks associated with this project shall only be on or near the site between 9:00 a.m. and 3:00 p.m. , Monday through Friday. 4. A lighting plan shall be submitted as part of the Building Permit application. Exterior lighting shall be designed to eliminate off-site spread of light through the use of hooded, low level light, low wattage light fixtures which cast light in a downward direction. Such lighting should be permitted for safety and security purposes only and must be unobtrusive and maintain privacy. The tennis court will not have lighting. 5. The engineer has designed the 36" culvert so as to increase capacity in the 24" pipe, but the 14" pipe causes flooding even during minor storms. Prior to building permit issuance, the applicant shall submit a financial contribution for 25 percent of the cost of replacing the 14" pipe on Red Hill Avenue. 6. Prior to issuance of a building permit, the applicant shall post a road improvement bond or provide other assurance to the Town that damage to public streets resulting from construction vehicles will be corrected. 7. Prior to construction, those trees to be removed shall be clearly labeled in the field. Only those trees identified to be removed on the plans received by the Town on September, 25, 1995 shall be removed. For those trees remaining, prior to construction the steps outlined in the Tree Protection Plan (page L-3 of the plans received September 25, 1995) shall be performed. 8. The removal and pruning of more than 50 percent of the remaining trees shall be prohibited except for reasons of disease, and the need to maintain fire and human safety. 9. The exterior materials shall be as follows: Siding: Natural cedar shingles; Window and Door Trim: Opaque Stain; Roof: Black Composition Shingles; Chimney and Base of Walls: Rock. 10. The distance between the paved road and the bottom of the bridge shall be no less than 14'. A lesser height will be subject to approval by the Public Works Director. 11. Prior to building permit issuance, a detailed landscape plan shall be submitted and reviewed by the Planning staff which includes a fencing plan to provide openings for wildlife migration. Approval of this plan shall be by the Planning Director. 12. Prior to building permit issuance, the applicant shall obtain all other necessary discretionary permits of approval, e.g., the California Regional Water Quality Board, etc.

Ayes: Mihaly, Duys, Harle, Hayes, Wittenkeller, Sargent

Abstain: Israel

Motion carried. Audience advised of the ten day appeal period.

2. V-9538/DR-9521 - Luis Huerto Rojo, 120 Spring Grove Avenue, A/P 6-221-03, design review and variance to: 1) construct a single family residence, and to remove 15 Bay trees between 6" and 30" in diameter, and 2) to construct a 12' tall retaining wall 0' from the front property line (20' required) on property located within the R-1 Zoning District.

The applicant was present.

Ms. Chaney presented the staff report.

Mr. Huerto Royo explained that this house will be his home. He indicated that there was an original proposal that was approved in 1974. He said that this house will not be viewed by anyone. They tried to locate the house in the location of where the original cut was done. The highest point of the retaining wall is 7' and reduces in height as you go up the driveway. There is a natural swale that empties into the culvert. By diverting the water, they have reduced the amount of water that goes off site. They are also proposing to pipe the area across the bottom of the driveway.

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Commissioner Duys said she does not see any problem with the design of the house as long as the house is moved back 8' as suggested by Staff. She noted that she has observed other stone retaining walls in the area.

Commissioners' Harle, Sargent, Wittenkeller and Hayes support the application.

Commissioner Hayes indicated that he would like to see a darker exterior color.

Chairman Israel said the mass of the house is a little broken up but felt comforted that it is set back on the site and not viewed by anyone. Because of that, the color is not a problem with him. Also, the retaining walls will have vines draping over it. He is concerned about diverting water around the house. He would like to see intermittent, trench drains.

Commissioner Sargent wanted to make sure that precedent will not be set by allowing such a light colored house. Chairman Israel stated that a good design is better than camouflage and if you can't see the house, it doesn't matter what the color is.

Mr. Huerto Royo said the facade has been broken up, there are lower areas where the roof comes down and the roof is dark.

M/S Sargent/Harle, to approve V-9538/DR-9521 - Luis Huerto Rojo, 120 Spring Grove Avenue, A/P 6-221-03, design review and variance to: 1) construct a single family residence, and to remove 15 Bay trees between 6" and 30" in diameter, and 2) to construct a 12' tall retaining wall 0' from the front property line (20' required) on property located within the R-1 Zoning District. Approval is based on the following conditions:

Variance:

1. Due to special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the controlling zoning ordinance or regulation deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications, and the granting of a variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. This property has an extreme grade differential from the street to the area the house is to be constructed. It would be extremely difficult to design a driveway on this property, that could meet all of the development standards and not have a retaining wall of this size. Many of the existing houses in this neighborhood have similar driveways and some have comparable retaining walls. *2. The granting of the variance, under the circumstances of the particular case, will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property or the applicant and will not be detrimental to the public welfare or injurious to property or improvements in such neighborhood.* The proposed residence will not have any detrimental impacts on the adjacent properties. The proposed retaining wall will not create any overly hazardous situation on this or neighboring properties and landscaping is proposed to soften the retaining wall.

Design Review:

1. Is functionally and aesthetically compatible with the existing improvements and the natural elements in the surrounding area. Constructing a single family residence on this property will not dramatically change the character of this neighborhood. This property will be developed in a similar manner as existing residences in this section of San Anselmo. *2. Provides for protection against noise, odors, and other factors which may make the environment less desirable.* No unusually high levels of noise or odors will result from the construction of this new residence. The property is residential and will be used in a similar manner as other properties in this neighborhood. The Town of San Anselmo's controls for new construction should development. *3. Will not tend to cause the surrounding area to depreciate materially in appearance or value or otherwise discourage occupancy.* This proposed addition will not cause depreciation problems for neighboring residences. The improvements on this property may actually result in an appreciation of property values for adjacent residents because of the quality of the development. *4. Will not create unnecessary traffic hazards due to congestion, distraction of motorists, or other factors and provides for satisfactory access by emergency vehicles and personnel.* The proposed construction of this residence may result in some traffic problems during some points of the building period. However, the actual times traffic will be stopped will require prior notification to the Public Works Director and the Police Department. *5. Will not adversely affect the health or safety of persons using the improvement or endanger property located in the surrounding area.* This project will be subject to all of the necessary review safeguards required for constructing a new single family residence in San Anselmo. *6. Conformance to the approved precise development plans.* A precise development plan is not required for a property in the R-1 zoning district. *7. Adequacy of Screening.* This house is located in the center of a property with varying elevations and a substantial amount of mature trees will be maintained. These factors should prevent the house from becoming highly visible. *8. Selection of architectural features that enable the structure to blend with its environment.* The proposed exterior materials of wood siding and asphalt shingles have been used on existing residence throughout San Anselmo. Because this site is not highly visible the proposed lighter colors will not dramatically increase this residences visibility. The proposed materials are similar to those used on existing residences in San Anselmo.

Conditions of Approval: *1. The applicant shall construct the house in accordance with the plans date stamped received on July 10, 1995 by the Town of San Anselmo, except that the house shall be set back 8' from the east property line. The retaining wall on the driveway as modified, shall not exceed 7 feet in height. The minimum width for the driveway shall be 14' and the maximum grade shall be 22.5% unless modified by the Ross Valley Fire Chief. 2. The architect shall submit a final landscape plan for the type of plant covering to be used on the driveway retaining wall. This plan must be reviewed and approved by the Planning Director. 3. The applicant must adhere to all of the conditions raised in the Soils report dated May 11, 1995 prepared by Salem Howes Associates Inc., and the letter*

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prepared by K.H. Furby Engineering consultant dated June, 15, 1995, regarding all issues of soil stability. 4. The Public Works Director should specifically review the appropriateness of the drainage system. 5. That if this development which has received discretionary approval has not begun within one year from the date of the final action, the permit shall become null and void. However, this discretionary action may be renewed by the Planning Director for a maximum period of one year provided the applicant places such request in writing to the Director showing good cause prior to the expiration of the discretionary action.

All ayes: Audience advised of the ten day appeal period.

3. V-9546 - Alan Voigt, 35 Sierra Avenue, A/P 5-194-19, a variance request to: 1) construct an addition that will increase the overall lot coverage to 40% (35% maximum coverage allowed); 2) to increase the height of the entire house by 4', the existing building walls are located 4'-6" from the north, and 4' from the south side property lines (8' required side yard setback); 3) extend a segment of the front building wall out 5'-6", while maintaining a 4'-6" setback from the north side property line (8' required); and 4) construct a new deck that will be 5' from the side property line (6' required) Increasing the height of the house will increase the total floor area of the house from 1,487 square feet to 2,920 square feet including the new garage area. This is located within the R-1 Zoning District.

Because of the late hour, this application was continued to the meeting of November 20, 1995.

4. DR-9526/U-9509 - Papa Murphy Pizza, 21 San Anselmo Avenue, A/P 7-302-17, use permit and design review to locate a "take and bake" retail pizza establishment and install new signs, on property located within the C-3 Zoning District.

The applicant was present.

Ms. Chaney explained that staff is recommending approval of the use permit but recommends continuing the design review for the sign permit.

M/S Sargent, Wittenkeller to continue DR-9526 to 11/20/95. All ayes.

M/S Wittenkeller/Harle to approve U-9509 - Papa Murphy Pizza, 21 San Anselmo Avenue, A/P 7-302-17, use permit to locate a "take and bake" retail pizza establishment, on property located within the C-3 Zoning District use permit. Findings for approval are: *The establishment, maintenance, or operation of the use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in neighborhood of the proposed use, or be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the Town.* Staff finds that the proposed use would not be detrimental to the health, safety, and welfare of persons living or working in the neighborhood in that the use is no more intense than the previous retail use and, subject to conditions, will not create undue light and glare within the surrounding residential area. Conditions of approval are: 1. That the tenant space be improved per plans date stamped received by the Town on September 18, 1995. 2. That if this development which has received discretionary approval has not begun within one year from the date of the final action, the permit shall become null and void. However, this discretionary action may be renewed by the Planning Director for a maximum period of one year provided the applicant places such request in writing to the Director showing good cause prior to the expiration of the discretionary action.

Motion unanimously passed. Audience advised of the ten day appeal period.

5. Design Review Amendment, Tamalpais Theater, Ned MacDonald, 330 Sir Francis Drake Boulevard, A/P 6-251-04, request to change awning colors/pattern and general discussion of building facade changes, on property located within the C-2 Zoning District.

Because of the late hour, the Commission and applicant agreed to continue this item.

M/S Mihaly/Israel to continue to 11/20/95.

G. GENERAL DISCUSSION

H. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

I. ADJOURNMENT TO NOVEMBER 20, 1995

The regular meeting of the San Anselmo Planning Commission was adjourned at 12:30 a.m. to the next meeting of November 20, 1995.