

**SAN ANSELMO PLANNING COMMISSION
MINUTES OF AUGUST 3, 1998**

CALL TO ORDER

COMMISSIONERS PRESENT: Chair Zwick, Commissioners Wittenkeller, Israel, Cronk, Harle, Dowd and House

STAFF PRESENT: Planning Director Chaney, Senior Planner Wight and Associate Planner Griffin, Town Attorney Roth

OPEN TIME FOR PUBLIC EXPRESSION

No one spoke at this time.

CONSENT AGENDA

1. Minutes – July 20, 1998

There was a request to remove Consent Item 2 (Boesel) and place it on the public hearing.

M/s Israel/Zwick, and unanimously passed (7-0) to approve Consent Agenda Item 1.

3. DR9826 Frank Niess, 108 Hildale Drive, A/P 6-155-12, Design Review to construct a new bathroom and closet within 5'8" of the south side property line. The new room will extend the existing house 9' further along the existing plane of the house, on property located within the R-1 Zoning District. (Staff person: Chaney)

M/s Israel/Zwick, and unanimously passed (7-0) to approve Consent Agenda Item 3.

The audience was advised of the 10-day appeal period.

PUBLIC HEARING

2. LLA-9801/PDP-9801/DR-9812/V-9825 - David Boesel, near 259 Redwood Road, A/P 7-097-02 and 05 and 7-141-04, 1) Environmental Review, Precise Development Plan, Lot Line Adjustment, Design Review to construct two houses and extend a private driveway on 2.6 acres of land; Variance to construct retaining walls approximately 4' in height within 0' of a property line; and Variance to allow access drive to cross one lot to serve another, on property located within the R-1-H Zoning District (above 150' mean sea level). Note: Project will involve removal of a number of heritage trees. (Staff person: Chaney) Taken from Consent Agenda.

LLA-9801/ER-9806/Z-9801/V-9826 - William Hildebrand, 269 Redwood Road, A/P 7-097-04
1) Lot Line Adjustment request to expand existing lot, 2) Rezone expanded portion of new parcel from R-1-H to R-1; and 3) Variance to allow construction of retaining wall, approximately 7' in height, within 0' of a property line, on property located within the R-1 and R-1H Zoning District (above 150' mean sea level) (Staff person: Chaney)

Ms. Chaney presented the staff report.

Kathy Sanders, 310 Redwood Road, questioned condition 7(h) of the 72' extension of the retaining wall in relationship to drainage into the ditch and whether the extension is on property that is not Mr. Boesels. She questioned the integrity of the proposed drainage and disagreed with the finding that it is a low height profile.

Gay Kagy, 280 Redwood Road, expressed her concerns of economics, drainage and catch basins on the Hildebrands section of road as portions of it were re-paved last year while other sections are in need of repair. She and Rebecca Chute, 39 Allyn Avenue, will be affected by water runoff down the hill and stated that Redwood Road would be safer with new paving in other much needed areas.

Michael Kline, 300 Redwood Road, is concerned of the widened road and people speeding there. He wondered if speed bumps could be installed.

Gene DePrado, 248 Redwood Road, is concerned about the overloaded drainage system in that area.

Mrs. Chase, 232 Redwood Road, is concerned about water coursing down Redwood Road and coming down the driveway.

Chair Zwick stated that water will go into the existing catch basin.

Commissioner Israel stated there is a catch basin that has been engineered to decrease drainage flow and suggested Ms. Kagy speak with the Department of Public Works to answer any further questions on engineering.

Ms. Przybiski, 246 Redwood Road, expressed concern about drainage and water eroding the road. Speeders have crushed her garbage can.

Rebecca Chute, 39 Allyn Ave., is concerned about the implication of the proposed drainage. She

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would like additional documentation on drainage and requested that more research be done by an outside party.

Ms. Chaney stated that the intent of the extension of the retaining wall is to direct drainage into the culvert. In terms of height, Mr. Boesel has pulled back on the height of houses. In terms of speed bumps, the Police and Fire Departments do not approve of them because it slows response time and damages the vehicles.

In response to Commissioner Harle, Ms. Chaney stated that she recommended, in keeping with the original plan, to pave the area in front of the Hildebrand property instead of another location to provide a safer road.

In response to Commissioner Cronk, Ms. Chaney stated that the private open space property easement contained in the Bald Hill Plan states what is allowed and what is disallowed. It is intended that the land and vegetation remain in its existing natural state. No construction, landscaping, or temporary structures of any kind are allowed within this open area, except for condition #23, page 6 and 7 of the staff report, Item b) #'s 1), 2) and 3) as cited by Ms. Chaney.

Commissioner Israel stated that Kathy Sanders would be better served if the finding on page 9 had the words "and structures" taken out. He is confused on dimensions of the retaining wall and the encroachment easement to build it.

Commissioner Israel supports staff's view on speed bumps.

Commissioner Israel asked if the commission could approve 7(h) and amend the finding on page 9(a) to strike out the words "and structures".
The audience was advised of the ten-day appeal period.

M/s Israel/Dowd, and unanimously passed (6-0-1 abstain: Cronk), to approve.

1. V-9827/DR-9820 – Louis Huerto-Rojo, 45 Sunview Avenue, A/P 5-165-66, 1) Design Review to build a 1,900 square foot, three-story home and a 493 square foot attached garage. 2) Variance to build the house and garage within 0' of the front property line (20' required). A portion of the proposed driveway and entrance stairs is located within the public right-of-way (revocable encroachment permit required); and 3) a Variance to decrease the number of off-street parking spaces from 3 to 2, on property located within the R-1 Zoning District. (Staff person: Griffin)

Mr. Griffin presented the staff report.

Commissioner Harle liked the idea of the parking solution.

In response to Commissioner Cronk, Mr. Griffin stated the visibility of exiting the garage in relationship to the curb.

In response to Chair Zwick, Ms. Chaney informed him of the master plan and state law.

In response to Commissioner Israel, Mr. Griffin stated that it appears an Oak tree will be unable to remain on the property according to the arborist and staff's recommendation, however, four Oak trees will replace the Oak if it needs removal.

Louis Huerto-Rojo, architect for owner Dan Kelly, agrees with staffs' conditions. He has taken careful measures with a licensed surveyor to select the best sites. In response to Bill Rankin, Mr. Huerto-Rojo stated that he made an effort to maintain the tree and vegetation. He will replacing trees with a number of Oaks.

Milene Meyer, 83 Berkeley Ave, agreed with the extra drainage provisions. She questioned whether the narrow, windy, dark road will have planned lighting and how close the house will be to the road. Offsite parking will be compromised for visitors and will allow one lane of travel if there are two cars parked. She requested that the curb be painted red to disallow unsafe parking. She disapproved of the Variance.

Mary Rankin, 37 Sunview, has called police because parked cars have not permitted traffic to pass. She is concerned about drainage, lighting/reflection, odors, roof color, materials, quality and degradation. The #3 design is the most attractive to her and will not depreciate the neighborhood.

Paul Nave, Oak Avenue, would like the neighborhood to work together now and in the future should he ever build. He stated it is the right of homeowner to build and agrees it is the owners' responsibility to meet the Towns conditions when applying for a variance.

Bill Rankin, 37 Sunview, questioned the property marker location. He is concerned of a one hundred year old heritage tree and whether it will sustain a cut into the hill. He questioned the best home site on the property and integrity of drainage around the tree. He liked the V ditch preliminary design and parking solution. He would like to see good quality shingles on the roof as it would be visible. He agrees with the neighbors concern about the height of the home and preferred it to be scaled down.

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In response to Commissioner House, Mr. Griffin stated that the Department of Public Works has the specifications on pavement width and that the road can be widened in different places.

Ms. Chaney suggested a guardrail along that area of road and stated that twelve feet of clearance is needed at all times.

In response to Commissioner Cronk, Mr. Griffin stated that a lighting plan was not submitted and will be necessary.

In response to Commissioner Dowd, Mr. Griffin stated that trees taken out will be replaced with Valley Oak and Australian Teas as requested by the applicant.

In response to Commissioner Cronk and Commissioner Israel, Mr. Huerto-Rojo stated that the new roof will be 30 year Class A materials.

Commissioner Harle is confused on the issue of lighting because good lighting is needed while others state it should not be intrusive. In conclusion Staff concurred that lighting should be good enough to provide onsite safety without impacting the neighbors.

Commissioner Dowd concurs with Commissioner Wittenkeller as the house is in the middle of a major swale. Commissioner Wittenkeller believed the second V ditch will not solve the drainage problem. He would like another drainage option to be used and approved of the landscaping plan.

Commissioner Israel, Commissioner Dowd and Commissioner Wittenkeller agree that water coursing is an issue.

Commissioner Israel agrees with the design although the house is large. He would like damming measures to be taken to prevent water coursing across the street. He would like the roof to be attractive, vegetation to soften the appearance of the wall and have natural material on the exterior of the house to blend into the hillside. He stated that installing an engineered curb will satisfy the safety issue.

In response to Commissioner House, Commissioner Israel explained that the drainage swale and building mass locations to the drainage swale could be better located if the design were flipped.

Commissioner Cronk supported the design and three parking spaces.

Louis Huerto-Rojo, in response to Commissioner Harle, stated that the survey is documented and that new instrumentation overrules old survey techniques.

Chair Zwick and Commissioner Harle stated that property owners can have their own survey prepared if they prefer.

Commissioner Wittenkeller concurs with Chair Zwick and Commissioner Harle on the survey and curb (8-10") issues.

Chair Zwick did not approve of building in a swale. If built, he would prefer natural materials be used. The SIZE OF The building was too large and the massing was imposing.

Louis Huerto-Rojo stated that a majority of water comes from the side of the hill, not from the swale and that this design is preferable over the previous one due to safety, drainage, lighting and parking.

M/s Israel/Zwick, and unanimously passed (7-0), to continue the application to the meeting of August 31, 1998.

2. V-9821 - Daniel Hillman, 853 San Anselmo Avenue, A/P 7-162-06, Variance request to rebuild and enlarge an existing garage within 2' of the easterly side property line (8' minimum required) and within 3' of the rear property line (20' minimum required). Applicant plans to expand the width of the building from 14' to 18', on property located within the R-3 Zoning District. (Staff person: Wight)

Ms. Wight presented the staff report.

In response to Chair Zwick, Ms. Wight explained setback rules, reconstruction, repairs and administrative variances.

Daniel Hillman, applicant, stated that his home is the only one story house in the neighborhood, he will leave the garage the way it is. Mr. Hillman withdrew the project.

3. V-9832/DR-9825 - Jeffery Reinders, 67 Spruce Avenue, A/P 7-025-01, Variance to reduce the number of required parking spaces from 3 to 2; Design Review to add 747 square feet of floor area to an existing house; possible variance to exceed the allowable floor area ratio (FAR), on property located within the R-1 (above 150' msl) Zoning District. (Staff person: Griffin)

Mr. Griffin presented the staff report, noting that staff cannot support the design review because

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of staffs' interpretation of the 10% rule.

In response to Commissioner House, Mr. Griffin stated that to a point there are space problems.

Commissioner Israel is confused by staffs' comment on a parking space previously approved as it looks impossible to get into because of the deck post location.

Mr. Griffin agreed that it would be difficult to get into.

Chair Zwick stated that sometimes the Planning Commission counts the FAR even though it is below the house.

Mr. Griffin stated that houses built after 1991 have different space needs than previous requirements and that the applicant can be exempt because it does not add mass to an existing structure.

Ms. Chaney stated that the 10% rule needs to meet certain requirements before it can be approved.

In response to Chair Zwick, Mr. Griffin described the required findings. A requirement for the 10% rule is that extra square footage meet the criteria. Mr. Reinders believed he met the criteria. He requested 35% coverage of the upstairs and downstairs plus 10%.

In response to Commissioner Israel and Commissioner Cronk, Mr. Griffin stated that regarding the under-story findings, a 10% rule is the least materially visible to the outside, however, you may be able to see it from outside.

In response to Commissioner Cronk and Chair Zwick, Mr. Griffin stated the requirements previous to 1991. He is not convinced that the applicants' space utilization problems will be solved.

Ms. Chaney stated that additional information could be put into the ordinance.

Mr. Reinders stated that he has stayed within the setbacks, located the addition up-slope from the street and tried to minimize the footprint. He believed he has complied with the FAR requirements while utilizing the crawl space for the water heater and felt this would be a reasonable application for the 10% rule without affecting the mass of the building. He cannot use the existing door for parking access. Mr. Reinders agreed that it is tight around the deck, however, the post can be redesigned and reengineered for better access. He would like a tool shed.

Debora Loft, 9 Francis, has reviewed the plans. The additions and tool shed will not be in her view, however, she requested a consistent roof color.

In response to Commissioner Dowd, Mr. Griffin stated that a two-car garage would be subject to Design Review and a Variance for the front and rear yard.

Commissioner Wittenkeller believed the proposal is reasonable and approved as the variance is de minimous.

Commissioner Harle concurs with Commissioner Wittenkeller and sees no intrinsic objection.

Chair Zwick and Commissioner Harle would like the FAR to qualify under the Variance. Commissioner Harle asked that the application be rewritten with a Variance of the FAR.

Commissioner Dowd could approve the application with conditions.

Commissioner Cronk believed that the intent of the rule is not reflected in the language and would like the rule to read differently. She supported the application.

Commissioner House supported the application.

Commissioner Israel and Commissioner Cronk questioned the language of the FAR and findings. Commissioner Zwick would like to have the post designed in an effective way.

Chair Zwick recommended that language be clarified and that the Planning Commission approve it as it is de minimous. The shed can stay.

Commissioner Harle has no question on the language.

Commissioner Wittenkeller approved the proposal.

M/s Wittenkeller/House, and passed (6-1Harle: no), to approve the application based on the findings and conditions as set forth in the staff report and post modification.

Because of de minimous findings it is recommended that staff clarify the language and include an intent statement.

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M/s House/Zwick, and passed, (6-1 Harle: no) to clarify language and include an intent statement.

4. TOWN OF SAN ANSELMO – Amendment to Oak Avenue Development Agreement – Amend the Oak Avenue Development Agreement to remove the requirement for a road maintenance agreement due to the lack of all parties wishing to participate. (Staff person: Ann Chaney)

Ms. Chaney presented the staff report.

In response to Chair Zwick, Mr. Roth stated that without the Maintenance Agreement a reliance would be on Civil Code #845.

Commissioner Israel questioned if the Public Works Department could rectify a remedy in the absence of a homeowners association.

In response to Commissioner Israel, Ms. Chaney stated that the Town has not enforced #845.

In response to Commissioner Wittenkeller, Mr. Roth stated that the document is not recordable because it is incomplete.

Michael Gill, 663 Oak Avenue, stated that the Sanitary District has the authority to enforce property owners to maintain their property and pay for repairs. Essentially he wants equal parity with the other fourteen property owners. The document can not be recorded as required under the development agreement without all signatures. He believed the road maintenance agreement adds value to the property as owners will maintain the road equally. Sanitary District No. 2 could not get everyone to sign. There will be a fire safety study in the Development Agreement. The intent was that whoever built first would have an ordinance and all owners would help with engineering costs, the Town said no to this. The property owners are waiting for the Sanitary District and the Town to make a decision. Either the property owners are subject to the Maintenance Agreement or subject to the civil code. Some people are not on the Maintenance Agreement and just subject to the civil code. Originally when they were to build whoever built first the Town said there are two choices; have an ordinance and all owners will pay for an engineers report. The Town said no, the infrastructure requirements are too important. We agreed that as a minimum that those infrastructure requirements would be approved before anyone built. We took the risk that should we build first we would get stuck doing this. If we didn't take the risk then we would be responsible for all of this. That is why the parity issue is so important. At the same time the Sewer Assessment District had been discussing the requirements for two years. If the Maintenance Agreement is recorded, we will have an agreement. He would prefer that Mr. Roth eliminate the signature requirement of the Maintenance Agreement or the property owner will need to rely on the civil code section until the last two people sign it. The property owners do not want to sign now because they are waiting for the Sanitary District and the Town to force people to sign. In response to Chair Zwick, he stated that the two people did not sign because of the provisions in the agreement. One person said the Sanitary District would be indemnified. He did not want to do that until the end of the project because of problems with the slide on his property. The other property owner was not satisfied with the emergency provision.

Commissioner Cronk asked how he would get reimbursement under the civil code. Mr. Roth replied that there is an agreement with the Town to require reimbursement for work that is being done under these conditions.

Mr. Gill stated that the infrastructure has been put in. He has been reimbursed for the money by the Sewer District. The fire and road maintenance provision are within that agreement. There is no agreement in the civil code section for this case. He has spent one half million dollars on sewer, road and drainage improvements. His argument is that it is the intent that whoever came in first would be reimbursed. Regarding the clause to inspect and verify the Town would like to have that verification clause removed per the Department of Public Works and council members. He would like the verification clause removed.

In response to Commissioner Wittenkeller, Mr. Roth stated that in regard to jeopardizing the public's right of using the road to access the trail that it wouldn't be enforced unless everyone signed it.

Commissioner Israel questioned how Mr. Gill is harmed by the agreement not being recorded. Mr. Gill stated that a condition for building is that there should be a road and drainage agreement that gets recorded. He is concerned about the vacant land.

Commissioner Dowd questioned if there is any harm in amending the agreement to remove condition #28 (the recordation portion of it) and leave condition #15 in place.

Commissioner Wittenkeller questioned whether disclosure of selling the property would trigger disclosure requirements by having the non-signer sign over a period of time. In response, Mr. Roth stated that the purchaser would need to be talked into signing.

In response to Commissioner Wittenkeller, Chair Zwick stated that it could be made a condition of the sale.

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Ms. Chaney stated it could be signed on developed property (this includes additions).

In response to Commissioner Israel, Mr. Roth stated it would be complicated to make it a condition of sale.

Lewis Epstein, property owner on Oak Ave., stated that condition #15 requires culverts and ditches to be inspected annually and a report needs to be given to the Department of Public Works. He does not want the clause removed. People living downstream of Oak Avenue are concerned about the ditches and culverts creating a public safety hazard. He would like the Town to rewrite the ordinance so it can be agreed upon and questioned if inspections had been done. He explained why there is a lien on his property and that the water that caused the problem came from above his property. He is reluctant to sign the Maintenance Agreement because the road is not finished. He would like the lien and its consequences taken care of.

In response to Commissioner Israel Mr. Epstein stated that he does not want to be held liable, therefore, he does not want to sign.

Commissioner Cronk asked if his lien were removed would he sign, he replied that he could not obtain a building permit without it.

In response to Chair Zwick, Mr. Epstein said that if the lawsuit were resolved he would like to see a complete document before he agrees to sign anything.

In response to Commissioner Cronk, Mr. Epstein stated that he wants to be a homeowner before he signs the agreement (he has an empty lot).

Paul Nave, Oak Avenue, has volunteered to sign and has invested in the sewer system. He believes it is a good idea to have a maintenance agreement and hopes it can be amended.

Mr. Gill, 663 Oak Ave., stated that he agrees with the civil code. He believes the Sanitary District caused the slide although he is being blamed for a plugged culvert.

In response to Commissioner Cronk, Mr. Gill stated that one of the owners has moved away and has not signed the agreement.

Commissioner House asked what Mr. Roth's recommendations are. He replied that it is a policy matter with the Council and Commission.

Commissioner Israel stated he prefers that a maintenance agreement does exist.

In response to Chair Zwick, Mr. Gill stated that the Town is forcing people to sign. He wants to be in a position of parity on equal footing. Based on the facts he can not accept the lack of recordation when the owners are forced to maintain culverts on other owner's property. He cannot maintain neighbor's maintenance problems if he is not in agreement with the way the neighbor has taken care of the problem.

Commissioner Israel stated that it would be nice to have a maintenance agreement incentive to be able to record it. Mr. Gill stated that he would like the problem solved. The development agreement language gives the Town the right to have anyone who develops to sign the agreement. If you pass an ordinance stating that you need to sign then the amendment should be created to create parity.

M/s House/Dowd and unanimously passed (7-0) to continue to the meeting of August 17, 1998.

CONTINUED ITEMS

1. ER-9701/PDP-9803 - Curtis Eisenberger, A/P Nos. 5-031-35, 5-081-07, and 5-081-19, Review of Negative Declaration regarding Environmental Impact and Precise Development Plan to subdivide a 21.66-acre parcel of land into four home sites on 5.95 acres and dedication of 15.71 acres for public open space. The project site is located at the end of the Traxler and Valley Roads and covers the steeply sloping hillsides on either side of the drainage course, on property located within the R-1-H Zoning District. (Staff person: Wight) CONTINUED TO 8/17/98

2. PDP-9505/Parcel Split-9503/V-9549/DR-9525 - Carlos Castro, 444 Redwood Road, A/P 7-191-10, 1) Land Division, Precise Development Plan, Density Determination, and Design Review to split an existing property currently developed with a single family residence in order to construct a new house; 2) a Variance to construct a retaining wall a total of 60' long along the uphill side of Redwood Road (within 0' of the property line) in order to widen Redwood Road to 15' of paving for fire safety reasons; and 4) remove one heritage tree (30" bay) on property located within the R-1-H Zoning District (above 150' mean sea level) (Staff person: Chaney) CONTINUED TO 8/17/98

3. V-9828/DR-9821/S-9801 - Eric Layton for Dan and Donna Streckfus, 6-42 Red Hill Avenue, A/P 6-201-55, 1) Design Review to construct a new 2,000 square foot commercial retail/office building on an existing parking lot between 42 and 60 Red Hill Avenue; 2) Sign Review to construct a free-standing monument sign; and 3) Parking Variance to reduce the size of one parking space from 9' x19' required to 8' x 16' proposed, and a possible Parking Variance to allow

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fewer than the 7 required parking spaces, on property located within the C-3 Zoning District. (Staff person: Chaney) CONTINUED TO 8/17/98

4. V-9829/DR-9822 - Kevin Collins, 23 Madera Avenue, A/P 6-116-25, Design Review for reconstruction and expansion of a dwelling, increasing the size by 1,675 square feet on the first floor and 875 square feet on the second floor; and setback variances; a) a front yard variance for dwelling to be within 16' of the front property line; b) a front yard variance for an uncovered deck to be within 5' of the front property line; c) a front yard variance for a covered porch to be within 9.5' of the front property line on the first floor; and d) a parking variance for the required two parking spaces to be within 2' of the rear property line, on property located within the R-1 Zoning District (above 150' mean sea level). (Staff person: Wight) CONTINUED TO 8/17/98

GENERAL DISCUSSION

REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

ADJOURNMENT

The Planning Commission meeting was adjourned at 11:50 p.m. to the next meeting on August 17, 1998.

MARGIE CUITTI