

MINUTES OF THE SAN ANSELMO TOWN COUNCIL SPECIAL MEETING
OCTOBER 27, 1986

Mayor Wooliever convened the meeting in special session at 8:00 p.m. on October 27, 1986, with Councilmembers Chignell, Cordingley, Sharp and Walsh also in attendance.

1. AR-6 - Quarry Mountain, Incorporated, A/P Nos. 177-220-50, 177-250-40 and 177-250-41, appeal of Planning Commission approval of master landscape plan.

Present: Douglas Elliott and Bruce Berman, applicants, Robert Merritt, Jr., Attorney, Irving Schwartz, Civil Engineer, and John Roberts, Landscape Architect.

Mayor Wooliever noted the public testimony had been taken at the previous Council meeting on October 14, and the item was now at the Council table for discussion.

Town Planning Consultant John Roberto presented the staff report for the landscape plan and reviewed the requested information:

A. Mr. Roberto said the intent of the landscape plan is to improve the overall visual quality of a project within the R-1 H zone and provide landscaping which mitigates the visual effects of grading associated with a development. In review of the landscape plan the Council can consider visual effects of the layout of streets, and pedestrian ways, lot and building envelope locations, the improvement plans including grading of the subdivision. However, the landscape plan cannot be used as a vehicle to amend the tentative map or related subdivision improvements. Referring to Exhibits on display at the meeting, Mr. Roberto stated that Exhibit 1 is the Master Landscape Concept for the subdivision which shows future landscaping on individual lots and how it is tied to the overall subdivision Landscape Plan, Exhibit 2. Exhibit 1 is only intended as a guide. The specific landscaping for each lot will be brought to a public hearing when a specific building is proposed.

B. In staff's opinion, Mr. Roberto said items 1, 5, 6, 7, 8, 9, 10 and 11 of Mr. Draper's appeal are related to the landscape plan and items 2, 3, 4, 12, 13, 14 and 15 are not related to the landscape plan or subdivision improvements. He further stated that most of those items related to the landscape plan have previously been reviewed by both the Planning Commission and Town Council:

C. Mr. Roberto discussed Items 1, 3, 4, 6, 7 and 11 of the appeal:

1. Staff's opinion is that the landscape concept presented in Exhibits 1 and 2 is functional and aesthetically compatible with the natural and man-made landscape in the area and meets the intent of Section 10-3.1207(c) of the R-1H Zone.

3. Refer to "D" below regarding Planning Commission's finding on traffic.

4. The grading plan is not part of the landscape plan. Grading was discussed at the preliminary plan and tentative map stages by the Planning Commission and Town Council. Furthermore, Resolution 2060 contained findings which allowed for development on identified ridge tops.

6. The grading plan indicates there may not be enough top soil to cover all the cuts. Resolution 86-1 requires the cuts be covered, so the material may have to be imported from an off-site location. The Council should weigh the advantageous effects of importing top soil to cover the cuts versus the damaging effects of large trucks travelling up and down adjacent streets to bring the top soil to the site.

7. The landscape concept calls for landscaping to ultimately be placed around lots 1, 2 and 3 when the buildings are proposed. The Council needs to decide whether this landscaping should be installed now and whether doing so will result in that landscaping being destroyed at the time of construction of these three homes.

11. Condition E-5 of Resolution 86-1 requires that pedestrian improvements or facilities be provided to the project site and the nature of these improvements be determined at the design review stage. Pedestrian way location was determined at the tentative map stage and the conditions of approval only apply to type of materials used for the pedestrian way improvements.

D. The Planning Commission stated at their meeting on October 20, 1986, there was no relationship between traffic generated by the project and the landscape plan and, therefore, the effects of traffic were never considered in their review of the landscape plan. In one instance the Commission discussed the size of the landscape island in the extension of Tomohawk Drive and whether the proposed 12

foot areas on either side of this island were adequate to accommodate on-street parking. This issue was resolved by the Commission requiring the island be narrowed and the roadway increased to meet the requirements of the engineer and Fire District. Since Resolution 2060 did not provide any criteria upon which findings could be made to act on the landscape plan, Mr. Roberto took the findings from the Design Review Ordinance. One of these five findings was that the project could not adversely affect traffic and the Commission made this finding by stating that the previous environmental clearance for the tentative map found that the project would not result in any significant adverse traffic impacts or result in any unnecessary traffic hazards.

Councilmember Cordingley questioned the number and size of the proposed boulders in the various locations and their height once placed in the ground; the reasoning for 5 to 15 gallon trees rather than larger trees and whether they will be protected from the deer; and if the intent of the proposal for these specific trees is to plant as few as possible but still create a large landscaped area.

Mr. Roberts stated the boulders will vary in size and shape - some may be 15 feet long and wide. The intent is to bury the boulders 1/3 to 1/2 to look natural in their setting. Boulders are proposed at the entrance, on either side of the roadway, in the island and on some of the sites. Mr. Roberts pointed out that in keeping with the Planning Commission's wishes, the boulders at the entrance are not intended to make a statement. Mr. Roberts said starting with a 5 to 15 gallon plant versus a larger one will result in a healthier and better adapted plant as it has not been contained in a can as long. After 5 years, there is virtually no difference in size starting with a 5 - 15 gallon plant and a larger one. The Alameda and Marin Cultural Advisory Committees recommend 1 gallon plants where feasible; however, 1 gallon would not be practical here due to the deer and harsh wind. Netting, larger plants, tree stakes on every tree will protect the tree from the deer rubbing their antlers and smaller plants caged and netted over a period of time are proposed as protection from deer and rodents eating the plant. Mr. Roberts said the project is actually overplanted to create a woodland.

Councilmember Sharp said he has no particular problems with the landscape plan. His concern is the inadequacy of the EIR, but has been legally advised there is no relationship between traffic and the landscape plan and, therefore, he has to deal strictly with the merits of the landscape plan.

Councilmember Chignell said he has received legal advise as well. He pointed out he was not on the Council when the tentative map was approved and is concerned about the traffic as addressed in the EIR, but has no questions on the items before him this evening.

Councilmember Walsh said lots 1, 2 and 3 are visible from Sunny Hills and questioned why they are not proposed to be landscaped now. She suggested increasing the two year bond to guarantee the plants will grow.

Jerome Draper, 295 Los Angeles Boulevard, suggested that if the Council has determined that traffic will not be directly impacted, it seems the Planning Commission erred in making it a finding. He also noted he can't talk about individual lots because we are looking at the master plan, but five to six lots will be graded in order to do the improvement plan - grading and landscaping are intertwined. Lots 1, 2 and 3 are visible from Sequoia and Sunny Hills ridges and a road will be carved into the side of the hill. There will be grading on the east side of that road so it should be landscaped.

Mr. Roberto said the R-1H zone is structured to follow the subdivision map process and not a master plan development process so the zone does not require the submission of building or architectural plans until the building permit is applied for. As a result, a landscape plan can only address the potential visual effects of a subdivision and improvements. He also pointed out that many issues raised by Mr. Draper have been discussed previously and resolved, but maybe not to Mr. Draper's satisfaction. Those issues cannot be pulled back for review under the guise of the landscaping plan. He said the Council can require additional landscaping and indicated such on Exhibit 1 or 2.

Jonathon Braun, 479 Scenic Avenue, said grading is part of the landscape plan. He submitted a cross section showing the relation between a house on the existing and proposed slopes, adding that the large grading areas are only necessary for landscaping and not for house area. He feels the plan doesn't meet the Code requirement for minimizing grading.

Mr. Elliott said the east side of the road by lots 1, 2 and 3 has a steep slope above and the road will not be seen from below, so adding additional landscaping on that east side would just be screening the hill.

In response to Councilmember Cordingley's question of the tree heights near lots 4, 5 and 6, Mr. Elliott said the natural oaks are approximately 30 to 35 feet high. These lots are at the edge of a vertical slope, so views above the trees from these houses will be possible.

Sophia Spencer, 18 Jordan Avenue, questioned if there is a maintenance plan for the landscaping and stressed this is a serious consideration.

Mr. Roberto said there are a number of ways maintenance can be monitored. One way, which he recommends, is for the subdivider to be required to post a two year bond to guarantee the plants will live. Councilmember Walsh suggested extending this period longer than two years. Councilmember Sharp questioned if a plant dies and is replaced, does the two year period again start, noting this could continue indefinitely. Mr. Kottage suggests the establishment of plants be over a 60 to 90 day period and thus the two year periods be divided into two time periods with replanting at the end of each period. Mayor Wooliever said the sufficient number of plants too could help offset this concern.

Mr. Stack said based on his library research, trees of this nature need at least four years to be established. Referring to the applicants' letter to the Council dated October 22, Mr. Stack said the statement, "When our tentative map was approved and appeal was unanimously overturned by the Town Council . . . the project became a reality" is incorrect as the project was conditionally approved and two councilmembers voted no. He also said the statement, "This project can be a model . . ." is not desirable as the Hillside Density Ordinance should be a model for development on hillsides. Referring to Mr. Merritt's statement in his letter to the Council dated October 23, ". . . appeal is a poorly disguised attempt to reopen . . . tentative map", Mr. Stack said this is not the case at all and feels all the lots should be landscaped before the plans are submitted for the individual lots.

Barry Spencer, 155 Los Angeles Boulevard, said he is saddened the Town is about to lose open space and questioned whether Mr. Roberto's comments have been unbiased.

Mayor Wooliever said the Town Council has been provided volumes of information in addition to staff reports and attending meetings and staff does have the confidence of the Town Council. Mr. Kottage added that the staff and planning consultant have been at odds with the developer over a vast number of issues in staff meetings, so when an item finally comes to a public hearing it doesn't mean the Town staff is advocating everything the applicant proposes.

Steve Best, 56 Elkhorn Way, questioned whether the traffic issue can ever be brought up again since several people feel the EIR was not properly done. Mr. Roberto said no, since the EIR has been certified and was discussed and analyzed at the tentative map stage. Landscaping is categorically exempt and the final map is a ministerial act under CEQA.

Mr. Stack read a portion of Section C(f) of Resolution 2060, "The project will contribute cumulatively to a significant adverse regional traffic impact."

Albert Barsochini, 4 Blackhawk, said the boulders should not make an entry statement.

Wayne Larsen 189 Oak Springs Drive, questioned the need for additional top soil and the anticipated large trucks using adjacent streets. Mr. Roberto said the routing of the trucks is from Sir Francis Drake Boulevard, to Broadmoor, to Indian Rock Road, to Tomohawk Drive; there will be set hours for construction; all materials and construction equipment are to be stored on site; and there will be some off-site improvements, e.g., pipes installed in the street to improve overall drainage. Mr. Elliott added he will be required to make a visual inspection of the road, post a bond, and repair any damage to the street.

Mr. Schwartz said the areas requiring grading, where not yet stripped by the old quarry operation, appears to have adequate fill, but he is unwilling at this point to guarantee additional topsoil will not be required.

Mr. Draper said the sprayed hydromulch on the rocks is only a temporary fix as it will die in the summer.

Mike Degasus, 173 Ridge Road, questioned who will maintain the vegetation after the individual lots are subdivided. Mr. Roberts said the individual owners will take care of their property.

Constantine Kanis, 46 Miwok Drive, said these are view lots and if the trees grow too high, the owners will remove them.

Councilmember Walsh suggested there be some prudent landscaping done at the beginning for lots 1, 2, 3 and feels the bonding should be increased to four years. Mr. Elliott said landscaping between lots 1, 2 and 3 installed before the individual lot construction will be destroyed when the homes are built.

Councilmembers Cordingley and Chignell questioned how the bonding mechanism works.

Mr. Elliott said the common practice for Towns is to require a one year bond as plants will die in the first 90 days. He has agreed to a two year bond; however, feels four years is burdensome. Councilmember Walsh said it may be unusual to increase the bonding period to four years, but this is an unusual property. Councilmember Sharp agreed.

Councilmember Chignell questioned the possibility of keeping the pedestrian and equestrian easement in conformity with local trails. Mr. Kottage said the key problem is the steepness of the trail and if it is not surfaced with a hard material, it will rapidly fall into disrepair and be a liability and maintenance problem.

Councilmember Chignell asked the Town Attorney for a public opinion whether he can discuss traffic in the landscape plan review. Mr. Roth said no, traffic is not before the Council at this time.

Mr. Kottage said he recommends the landscape maintenance procedure be 90 days after the planting is completed, the Town require the applicant to replace any plants that have died; two year bonding for maintenance and replacement of failed plants at the end of that time; and a condition in the C C & Rs that the property owner be required to implement and maintain the landscaping in substantial compliance with the master landscape plan.

Mr. Roth said if the Council is prepared, they should make a decision tonight on the acceptability of the landscape plan and with the condition that a resolution detailing tonight's decision come back for their review at the next meeting. He added that in his opinion the traffic finding was not necessary in the design review approval; however, since the Planning Commission made that finding then it is prudent for the Council to do so also.

Mayor Wooliever said the boulders are intrinsic to the area and may well be aesthetically pleasing to have there. Councilmember Cordingley disagreed and said he feels the boulders on either side of the road at the entry will create a visual barrier and bring focus to the road, which will be a subtle statement. He does not object to boulders elsewhere on the property.

Councilmember Sharp said his understanding is that Mr. Roth advised if the Council makes the exact finding for approval (No. B 4 of Planning Commission Resolution 86-1) of the landscape plan, it does not mean the Council is making the finding that 12 units will not have a significant impact on traffic. The environmental clearance established the traffic impact and his position that the EIR was not good is not at odds in approving the landscape plan. Mr. Roth said there is no conflict in this position, agreeing with Councilmember Sharp. Councilmember Chignell asked the record to show that he associates himself with those remarks.

M/S Cordingley, Wooliever, that the Town Council upholds portions of the appeal of September 15, 1986, and makes the findings the Planning Commission made in Resolution 86-01; that the Town Council approves the landscape plan as presented with modifications and conditions and that those conditions include removal of boulders from the entry way area on both sides of the road; that 90 days after all the subdivision improvements are completed all vegetation shall be subject to a Town inspection and any vegetation that does not survive that period be replaced; a two year bond provision on all landscaping to begin when the subdivision improvements are completed this activates the time period; all cuts be covered with top soil; and a condition be placed in the C. C. & R.s that all property owners be required to maintain vegetation as shown in the master landscape plan. This is to come back in a Resolution for the Council's review at their next regularly scheduled meeting.

Motion passed unanimously.

- 2. S-98 - Quarry Mountain, Incorporated, end of Tomohawk Drive, A/P Nos. 177-220-50, 177-250-40 and 177-250-41, final map.

Present: Douglas Elliott and Bruce Berman, applicants, Robert Merritt, Jr., Attorney, Irving Schwartz, Civil Engineer, and John Roberts, Landscape Architect.

Mr. Roberto reviewed the staff report for the final map, stating the only finding required is that the Final Map is in substantial compliance with the approved Tentative Map for the Old Quarry Subdivision including the conditions of approval as stipulated in Exhibit B of Resolution 2060. Staff has certified that the final map is in substantial compliance with Exhibit B of Resolution 2060 and the approved tentative map.

In response to Councilmember Sharp's question, can the Council make other findings, Mr. Roberto said other conditions cannot be attached.

Mr. Stack distributed copies of and read a letter to the Council dated October 27, suggesting the application be returned to the Planning Commission with subdivision improvements to keep the lots off the ridgeline and cluster the lots in the quarry area. Mr. Roberto noted that when the Council received a letter from several neighbors on December 2, 1985, appealing the Planning Commission's recommended approval of the tentative map, the Council saw merit in some of the points raised and felt the plan did not to the fullest extent possible retain the open space character of the northern most ridge line. As a result, the Council directed staff to have the tentative map be revised to move lots 1, 2 and 3 closer to the quarry to protect the ridge. When this was done, the Council made the necessary finding to allow development on the ridge.

Mr. Schwartz described the proposed dedications: a drainage easement to the Town; Sanitary District No. 1 sewer easements; a public pedestrian and equestrian easements to the Open Space District; public utility easements to Pacific Gas and Electric Company, Pacific Bell, Viacom Cablevision and Marin Municipal Water District; and an ingress and egress easement to the water tank area.

Mr. Roth said procedurally the Council should determine if the tentative map conditions have been met and the final map is in compliance with the tentative map. Any approval is subject to the Council approval of the landscape plan resolution.

Councilmember Cordingley asked Mr. Elliott that if in the future adjacent open space to the north ridge required an easement, would he grant such. Mr. Elliott said at that time he would consider that, if it is a reasonable request, but will not agree to such tonight. Mr. Roberto pointed out that if agreed to by Mr. Elliott that can be recorded with the final map; however, the Town cannot require this since it was not a condition of the tentative map.

Councilmember Sharp said if there was a legal way he could vote against the final map, he would do so based on traffic and the number of units; however, planning and legal experts have advised the only finding to be made is consistency with the tentative map.

Councilmember Chignell said it is very difficult for him to be in this position to review the final map when he wasn't on the Council when the tentative map was approved.

Councilmember Cordingley said he feels the same; however, from a legal standpoint the right thing to do is approve the final map. He said the Council has spent many hours to get better control on the development even in areas of grading, which seems to be a significant aspect of the development and should have been under Council control and are not adequately under Council control. At same time we have to continue our efforts to purchase the property. He said the design review process should be used to further make this a reasonable development.

Councilmember Walsh also noted she did not approve the tentative map.

Councilmember Wooliever said she voted for the tentative map and improvements. She said this has been a grueling experience, but what we have derived from it is far better than that originally proposed. She noted there have been many concessions on the applicants part and if she had her wish the property would remain undeveloped, but it is private property and she supports property rights. She said the final map apparently complies with the tentative map so she hopes this development can progress in an orderly fashion.

Mr. Kottage said he recommended a condition be made on the final map that prior to recordation of the final map, the subdivider shall enter into an agreement with the Town, having mutually agreeable terms to complete the required improvements at the subdivider's expense.

Mr. Spencer said this project has not given one inch to open space. Mr. Roberto noted 85 percent of the property was dedicated for open space; however for maintenance and liability reasons, the Town has not accepted it. The land will

be private open space and only fences and horse troughs can be constructed on it provided the design is approved prior to construction.

Mr. Stack asked that the record note his question that if he is walking on the private open space and is injured, who is responsible. Mr. Roth said it would be up to the courts to decide and the question is too hypothetical for him to answer.

Pat Broadbent, 7 Berkeley Avenue, asked how access to this private open space is controlled. Mr. Kottage said no trespassing signs have not yet been authorized, but they may be requested in the future.

Councilmember Cordingley questioned why the Planning Commission did not pursue the subject of fencing and if a fence can be placed anywhere in the open space. Mr. Roberto said he recommended no fencing in the open space easement, but the Planning Commission, after discussion of private property rights and liability issues, allowed fences and troughs. He added fencing will be subject to design approval.

M/S Cordingley, Wooliever, to approve the final map including acceptance of the offers of dedication; the conditional stipulation that precedent to the recordation of the final map, the subdividers' shall enter into an agreement with the Town, having mutually agreeable terms to complete the required improvements at the subdividers' expense; and make the findings that the final map is in substantial compliance with the tentative map and that all the conditions of the tentative map have been met; and the final map approval will be subject to approval of the landscape resolution.

Motion passed unanimously.

3. Adjournment

The meeting adjourned at 10:10 p.m. to the next regular meeting on October 28, 1986.

Lisa Wight
Planning Technician