

The regular meeting of the San Anselmo Planning Commission was called to order at 8:00 p.m. on November 1, 1982 by Chairman Stan Hayes in the Town Hall Council Chamber. L. Wight and G. Davison of staff present.

1. ROLL CALL

Commissioners Present: Bergeson, Harle, McPeak, Sharp, Signorelli, Peterson, Hayes.

Commissioners Absent: None

2. APPROVAL OF MINUTES

M/S Peterson, Bergeson to approve minutes of October 18, 1982 as written. Passed with 5 AYE votes. Abstaining, McPeak and Hayes.

3. NEW BUSINESS

A. V-1038 - Jonathan and Linda Rutledge, 53 Foothill Road

Mr. and Mrs. Rutledge present. No one in audience to comment. Staff reported no problems.

M/S Harle, McPeak, to approve V-1038, application of Jonathan and Linda Rutledge, 53 Foothill Road, A/P 7-053-18, for a 4'4" north sideyard variance to construct an enclosed stairwell within 3'8" of the north side property line on the basis that granting of the variance is necessary for the preservation and enjoyment of substantial property rights, will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property involved and it will not be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; variance is necessitated by the placement of the house already there and the need for a weather-proof access from the first to the second floor. Passed unanimously. P/C 11-01-82

Applicants notified of the 10-day appeal period.

B. V-1039 - Jack R. Hadley 4 Indian Rock Road

Jack Hadley present. No one in audience to comment. Staff reported no problems.

M/S Peterson, McPeak to approve V-1039, application of Jack R. Hadley, 4 Indian Rock Road, A/P 5-112-29, for a one-foot to eight foot frontyard variance and a one-foot rear yard variance to construct a single family dwelling within 19 feet to 12 feet of the front property line and 19 feet of the rear property line, on the basis that this variance is necessary for the presentation and enjoyment of substantial property rights; will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property involved and will not be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; variance necessitated by the configuration of the lot and the fact that the lot has street frontage on two sides. Passed unanimously. P/C 11-01-82

Applicant notified of the 10-day appeal period.

C. Z-219 - Siegfried Pfenndt, Astra Enterprises, A/P Nos. 177-250-40 and 41, off the end of Tomahawk Drive

Chairman Hayes stated there were 2 issues to be considered: (1) Adequacy of EIR which was prepared for Mr. Pfenndt's previous application for the same property, the question being will the EIR suffice for this application? (2) The proposed rezoning from PPD R-1 to SPD for 20 Single Family Units. He then outlined the process, (a) rezoning (b) Design Review (c) Use Permit. At each stage there is an opportunity for public input.

Procedure for the current meeting would be (1) Staff (2) applicant (3) audience (4) Planning Commission. He asked that comments be directed to the EIR and the rezoning concurrently.

Attorney for the Town, Hadden Roth, said at this point it was a question of density. He said he spoke to Ken Bley, Mr. Pfendt's attorney earlier in the day, and Mr. Bley seemed in agreement that density of all of the parcels under Mr. Pfendt's control should be considered at one time. Density should be determined on all holdings in the planning area, and then settle on the density for this particular area. The burden of coming forward with the economics of how many units would make the project economically feasible would be upon the developer. If the Pfendt entity does not agree with this position, and the Commission and Council want to treat the entire area in terms of density and then fix the density on the lower portion, they must deny the application as presented to the Town. If, on the other hand, Mr. Pfendt does agree with this position, he would be locked into a density on the entire area and you could go ahead and enter your findings on the lower parcel.

Mr. Pfendt stated he did not quite understand this. He said it was the first time he was hearing it, and was not prepared to act on the proposal. He said he wished to present the application as it is and enter into negotiations with the Town about the other parcel.

Chairman Hayes stated he thought the options for the Planning Commission were:

- (a) If Mr. Pfendt agrees to submit all parcels, the Planning Commission could proceed with final decisions on the density for the two parcels;
- (b) In the absence of Mr. Pfendt's agreement, the Commission could turn it down on its merits;
- (c) The Commission could proceed on the basis of the application which has been submitted.

Director of Public Works, George Davison, said he felt the Town's position is pretty clear; this entire ridge area is a sensitive area, and whatever development is to be allowed is going to be Town policy, clustered in one form or another. The density allowed is for both parcels, and in effect we will have a density transfer from the north parcel to the lower one. The back ridge is shown as open space both by the Town and County, and any development permitted would be clustered toward the lower portion, assuming that the Town is not in a position to acquire the entire parcel. The density needs to be approved for the total planning area, from the planning standpoint. He stated this is the best land in Indian Rock from a physical point of view insofar as geology and soils. There should not be the problems encountered in soils and geology there were encountered in Indian Rock 1 and 2.

Mr. Pfendt said he came prepared to present the application as it is, and he had not heard of this until tonight.

At this time, Mr. Pfendt asked if he could put his drawings on the Board and make the presentation. He also posted some drawings of projects he had done in other counties. He asked about the County Open Space plan, saying that always comes up, but he had never seen it, and asked where he could see the County Plan.

Mr. Pfendt stated further this plan, with the development on the lower portion would make it possible for the Town to purchase, or negotiate for purchase of the north ridge to preserve it for open space at a far below market value cost. He expressed his willingness to cooperate with the Town and talk with anyone authorized to act on behalf of the Town.

Carolyn Turner, 152 Los Angeles Boulevard asked why Mr. Pfendt is submitting a new plan while litigation is still pending. Mr. Roth answered the application is with the consent of both sides.

Antigone Stoddard, 444 The Alameda, said she has hiked the area for year, in fact, all of her life, she does not favor development and wants the property kept as it now is for everyone to enjoy.

Dagmar Jordan, 53 Miwok Drive, takes exception to the EIR which she feels did not deal adequately with the cars driving down the hill toward Santa Barbara, Los Angeles and San Francisco Boulevard. It dealt only with traffic flow down Broadmoor. She said residents who live in the area know that most people go down the back way. She said she takes exception to calling it stable land when there are areas where it is unstable land. She is concerned over the hazard to homes below. Calling it a quarry site is wrong since the quarry covered only half of the proposed parcel.

Taking information from the geology map, the slide areas were pointed out, and none of these were shown where homes are planned.

Ms. Jordan also stated the proposed density seems to be much higher than anything in the area. It is not in keeping with the neighborhood.

Bill Cordingly, 10 Elk Horn Way, said the density is far greater than it needs to be. 8 to 10 homes would be enough and those should not be lined up along the ridgetop. They should be spread out nicer. The burden of proof should be on the developer to enhance the neighborhood.

Steve Best, 46 Elk Horn Way said the traffic study in the EIR was almost entirely directed to Sir Francis Drake Boulevard. He lives at the base of Elk Horn and is seeing considerably more traffic. People are cutting through this area instead of being on Drake Boulevard. The area of Tomahawk, Black Hawk, Elk Horn, Miwok and Pasadena has to be addressed. There is a lot of traffic and a lot of speed as well.

Peter Edridge 49 Indian Rock Court feels all parcels owned by Mr. Pfendt should be treated as one to get an overall idea of the total density on the ridge.

Mary O'Dell, 41 Elk Horn Way, says people are amazed that there hasn't been a great sense of compromise on this, and that this thing will undoubtedly go on a lot longer until that kind of feeling is brought about. She is concerned with the EIR in regard to having all of the houses so very close together especially after last year's rains. She said we have to think very seriously about putting that kind of density in a small area. That is a lot of traffic for those small little roads, and they are not going to take that kind of density.

Virginia Tozer, 22 Tomahawk Drive questions density, traffic it will be creating, and the water supply.

Carroll D. Smith, 11 Elk Horn Way is concerned over taking property that was designated in the General Plan for open space acquisition and the narrow streets and traffic.

Jerry Kay, 26 Sunview Avenue said the property is generally surrounded by open space or 1 in 10 zoning. Proposed zoning is excessive, traffic is impacted by this plan, and it has no integration concept whatsoever.

Larry Stack, 10 Alice Way, said the EIR is adequate when it relates to an analysis of negative impact of any possible development, and he thinks that the County of Marin and Town, through the General Plan policies within the Conservation zone elements have determined that the undeveloped ridges and visual elements would result in community separation and identity; therefore the plan recommends that the ridge and open space be preserved as visual elements. The proposed project will permanently alter the visual conditions existing in the San Rafael/Sleepy Hollow ridge area which will diminish a visual feature considered to be of regional significance and profound significance to our Town. He then read a petition containing 500 signatures that had been submitted to the Planning Commission on a previous Pfendt application. Petition was presented again for the records.

Jonathan Braun, 479 Scenic Avenue said there is an overriding consideration, the Community feels it should be preserved as open space; since Mr. Pfendt has indicated he is willing to come to some sort of negotiation about it, the first priority should be to see what we could do about that. The density is out of hand. 20 units exceed, by twice, the amount that the Commission has approved on other parcels, and is inconsistent with the goals of the General Plan and doesn't deserve any real consideration.

Bill Tabb, 26 Indian Rock Court questioned the sincerity of the application. He submitted pictures of the area showing what happened as a result of last year's storm. The Commission, he said, should be concerned for the safety of the people below.

Discussion now went to the Planning Commission and the Commission was reminded of the two questions before them (1) Adequacy of the EIR, and (2) Do they wish to proceed with the planning area concept.

Commissioner Signorelli said he felt the EIR dealt with all items well enough, with the exception of the bypass traffic up Sir Francis Drake Boulevard, and that impact, perhaps, wasn't properly addressed in the EIR.

Commissioner Bergeson said he did not study the EIR and would abstain from voting; however, he was sympathetic to traffic and the soils conditions.

Commissioner Peterson stated it should be pointed out for the benefit of the audience there is, in the response to the draft EIR, discussions of exactly this question of the secondary route. He did not think it would have been adequate without the comments from the audience to supplement it. There is an analysis of the distance from the top of the hill going both ways. There is a computation to .001 of a mile of how far it is each way, and there is an estimate of how many cars use this route. Also in the original EIR there is a traffic count up on the top of Tomahawk and Black Hawk of 100 vehicles which definitely bears out what the audience has been pointing out. There are apparently quite a few vehicles crossing over the crest of the ridge and then going down through the San Francisco Boulevard corridor. He said he thinks the documents are sufficient.

Commissioner McPeak said the way it is addressed in the final report, we can debate the conclusions in the EIR. He has questions as to what was in the final and what was in the draft portion. There is an inconsistency there; He felt the information was in the EIR to come to some conclusions relative to traffic. Based on that he said he would recommend acceptance of the EIR for the purpose of addressing this one application.

Commissioner Sharp said with particular attention to traffic, he thought the EIR inadequate. The draft EIR is unrealistic as to the potential impact, the final document does nothing toward mitigation. He said he could not go along with recommending approval of the EIR on that basis. He thinks the traffic questions carry along the noise and air questions too, and they are inadequately addressed in either of these documents.

Commissioner Harle asked: If we don't find the EIR adequate for this proposal, what happens then? He said he felt the documents were adequate for the understanding we need to make the decision we have to make. We always have some quarrel with statements in EIRs.

Commissioner Hayes said he thinks it is adequate. Page 49 of the DEIR gives information to quantify the facts that a number of people are going up over the crest of the hill and down through to Sir Francis Drake Boulevard.

Commissioner Sharp mentioned the bottom paragraph of page 17, Final Documents, and said he wondered what their projection was based on, why they thought most motorists would prefer the perceived more direct route along Brodmoor Avenue. He took exception to that.

Commissioner Signorelli said he was aware of the problem and the impact. He said it is only an information document, and it is up to the Commission to determine the impact the traffic will have. He supports the EIR as presently proposed.

M/S Peterson, Harle, that we recommend certification of the EIR as adequate for this application.

Approved by the following vote:

AYES: Harle, McPeak, Peterson, Signorelli, Hayes

NOES: Sharp

ABSTAIN: Bergeson

Commissioner Sharp voted no for the reasons he enumerated in par. 6 above.

The Chairman said there are two options, they can accept the planned area concept and proceed along those lines, or they could not.

Commissioner Harle said he wished to consider the whole parcel and did not wish anything left for possible future development on another ridge.

Commissioner Sharp said he did not think there was any sense in looking at the application without looking at everything up there. He said he did not think it was a Commission burden to give Mr. Pfendt a number.

Commissioner McPeak agreed to the idea of referring the application back for inclusion of the total parcels and limit development to the south ridge.

Commissioner Peterson said Mr. Pfendt should be given an opportunity to choose if he wants the Commission to act or refer the application back. He said he would vote against the density which far exceeds what the general plan would allow. He said he agreed with what seemed to be overwhelming sentiment.

Commissioner Bergeson said he thought it poor timing for this application to come before the Planning Commission because of so many uncertainties such as the density study, the open space committee trying to raise money, etc. He said the plan was out of character with the Town. Row housing is not consistent with the site. He said he would find it difficult to approve the application from a planning point of view.

Mr. Pfendt said he had submitted this plan in good faith. He is very much interested in negotiating with the Town if they wish to purchase and acquire the north ridge at well below the market value. He said he is trying to give more than half of the prime property to the people.

Commissioner Signorelli said the plan submitted is somewhat inappropriate with the scale of homes on either side of the property. He said he and his wife own open space in Sonoma County which has been in the family for 132 years. He would like to see a non-profit organization consider purchase of this property for open space in San Anselmo, perhaps using Buck funds. He thought Mr. Pfendt would have a more favorable project if there were more space around each of the homes. It is not compatible with the space enjoyed by the neighbors. He will either have to spread out into the other area in order to create that space or submit a plan that will fit that particular neighborhood and would be more compatible to what is existing there.

Mr. Pfendt said he would like to get a cluster of houses. If one were to look at the total plan, it can be seen that he is willing to take off 1/2 of the prime property. That shows his willingness to cooperate with the Town. The plan shows 80 foot frontages.

Commissioner Hayes asked if the Commission should consider these 2 lots as the Planning area. He stated the maximum density according to the Town General Plan is one unit per acre. The proposed development is 20 units on 12 acres, or 1 unit per .6 of an acre. There is no way in the world that this proposal is consistent with the Town General Plan. The Commission cannot approve this project as presented without violating the General Plan. It is a State law. The law is very clear. The Commission could not do it before changing the General Plan. If the plan is considered tonight, it must be denied. If Mr. Pfendt would bring in the other lot, he would have 24 acres.

Commissioner Signorelli said: We should inform the sponsor that this density as proposed is not compatible with the neighborhood and that he should think in terms of going into the other parcel and submitting an alternative to what he has proposed for future consideration. He said he felt very strongly if he goes into that other neighborhood and the people there do not like it, they are going to have to come up with some form of their responsibility and they should start thinking seriously of how to acquire that other lot so Mr. Pfendt cannot go into it. The idea of enjoying open space at the cost of the landowner is something he doesn't buy. But, on the other hand, if the people want that property, they should be prepared to purchase it, and if they are not, then the developer should be allowed to go ahead. The Housing Element clearly states where we can use 12 - 20 units per acre in the conservation zone. He said he was talking about areas that were designated on the land use map for acquisition by the Town, so when we say that the General Plan states that 1 unit per acre is the maximum, that statement is not correct and this modification or amendment to the General Plan that makes those provisions is only 11 months old. It is a terrible conflict. It is plain and simple, and you don't have to be very smart to understand it.

Commissioner Peterson said what the Commission needed to do is deal with this application tonight and either deny or accept it, or else we could continue it. But, whatever was done, the Planning Commission has an obligation in good faith of dealing with applicants who come before the Commission and should give Mr. Pfendt each Commissioner's own point of view of a density range that he might approve without making any commitments. Each should make a brief statement of what might be acceptable to him to give Mr. Pfendt some guidelines as to the kind of density the whole planning area can tolerate.

There followed a discussion with Mr. Pfendt who asked for an interpretation of the General Plan and what Town ordinance he would have to look at that set the maximum density.

The Town Attorney stated that the correct density is 1 unit per acre maximum density for that area.

M/S McPeak, Peterson to continue this item until November 15, 1982. Passed unanimously. P/C 11-1-82

The Chairman asked each Commissioner to give an indication to Mr. Pfendt of the density he would feel comfortable with for the planning area, with the knowledge that nothing that came out of the discussion would be considered binding, but would be merely used as guidance to the applicant in good faith.

Commissioner Signorelli said he would like to make a stipulation considering what is going on; he doubts whether we could get approval without going into the other parcel. He then said he felt the density was out of context with what the Commission has been doing in the Town. He said he had a little problem with that. After a great deal of debate on the Willow Glen application and after going through the mill with it, it still came out approved for 21 units on 10.5 acres on the very worst flood plain in San Anselmo. He said he would support 20 units on the whole business--if the people didn't like it, fine--then let them buy it, but he would vote yes for 20 units on both parcels.

Commissioner Bergeson said: I think it is a mistake to expect Mr. Pfendt to go back and develop the north ridge or come up with a whole new plan. There are some points in what he has tried to do that he thinks should be supported, and that is to be giving away as much open space as he is giving. In order to arrive at a density clarity by combining both parcels and for Mr. Pfendt's development to spread out on the top of that ridge is less desirable than anything at this time. He said he hoped this continuance for a very short period would be well served toward having the community very quickly explore the possibility of a land trust. The north ridge would be desirable open space to acquire. He said he couldn't give any indication of density at this time; however, guidelines of 1 unit per acre seemed a sensible way to look.

Commissioner Peterson: We, as a Town, want to maintain as much of the north ridge in open space as we can. We are obligated, both by a sense of fair play and under State Law, as I understand it, to give a density transfer if we want to maintain that open space. One unit per acre is allowed in the conservation zone, and that is iron clad. No way would we approve more than 24 units for the entire 24 acres. Probably more like 20 or 22 units. We would like at the environmental constraints that are operating; look at the size of the lots in the neighborhood, look at the traffic problems, visual impacts, etc. in fairness to the applicant, and at owners of undeveloped property in this Town and pace an overall density on that entire 24 acres which would be somewhere between 20 and 22, and consider a density transfer. I feel construction should be kept on the southern ridge. I don't like the idea of small lots with houses 18 - 20 feet apart.

Commissioner McPeak: Basically I am in agreement with what Fred said. There is a question of the Stability of lot 22. If it did not prove to be viable, it would be abandoned. I would think 20 - 22 parcels for the entire 24 acres. I think we should look at a density transfer in all fairness.

Commissioner Sharp: I am not going to take a potshot at numbers. I do not think it is our position to be giving affirmative numbers. I am not comfortable with 20 - 22 units up there. I also have an interest in favor of having the north ridge preserved as open space if that is possible. I don't think ownership of property is the only basis for somebody being able to come in

and make comments about property and have an effect on what happens to that property.

Commissioner Harle: 15 - 6 units on the south portion and the other part to be dedicated as open space, or 8 - 10 on southern part with the north part to be acquired for public open space.

Commissioner Hayes: There are three considerations I have, (1) Equity (2) Financial viability (3) Compatibility of project. Concerning Equity: I have done a little study over densities approved over the last few years I have been on the Commission, and they are as follows:

<u>Project</u>	<u>Units</u>	<u>Acres</u>
Fischer on Summit Road	2	5.9
Jeff Kroot	2	2.1
Chernewood	8	11.4
Da1 Bozo.- Redwood Road	4	13.4
Da1 Bózo.- Camino de Herrera	5	19.6
Ben O"Hare	2	3
Wayne Lowe	<u>2</u>	<u>2.8</u>
TOTALS	25	58.2

This equals approximately 1 units per 2.25 acres. That is the entire body of what we have done and would set a precedent for the last two or three years of about 1 unit in every 2.1 or 2.25 or 2.33 acres. Taking the 24 acres, and looking at 1 unit for every 2.33 acres, it would support 10 or 11 units. (2) Financial viability. Would it be an economically feasible project with 10 or 11 units. Has that density been satisfactory to other applicants, and will it be for Mr. Pfenndt? (3) Compatibility with neighbors. The proposal is not consistent with the General Plan.

At 11:20 p.m. the meeting adjourned to a special meeting of November 8, 1982.

Theima Foster