

PLANNING COMMISSION MINUTES  
FEBRUARY 6, 1989

The regular meeting of the San Anselmo Planning Commission was called to order at 8:00 p.m. on February 6, 1989 in the Council Chamber by Chairman Sias. Staff present: John Kottage, Director and Lisa Wight, Planner.

A. ROLL CALL

Commissioners present: Harle, Julin, Hayes, Yarish,  
Kroot, Sias

Commissioners absent:

B. CONTINUED PUBLIC HEARINGS

1. C-221 - M. S. Partnership, La Mancha Development Company, 805 Sir Francis Drake Boulevard, A/P 6-082-14, design review of a new commercial building in a C-3 District, and review of proposed mitigated Negative Declaration.

Linnard Lane, the applicant, and Jerry Kler, architect, present.

John Kottage presented the staff report noting that the applicant has lowered the building height by two feet, but has not provided cross sections of the building, a parking lot lighting plan or details of channel lettering used for signage. Staff also has not received Caltran information regarding traffic generation by business type from the applicant and has not had an opportunity to contact Caltrans directly. Staff has contacted a traffic engineer and recommends that the best traffic flow conditions can be achieved by two way, access and egress off Madrone and egress only from Sir Francis Drake Blvd. With regards to the specific types of uses allowed on site, staff was not able to come up with a detailed list of acceptable businesses. Staff still feels that the only practical method of determining acceptable businesses is submittal of information on prospective tenants through the administrative use permit process. If a tenant is controversial, or if the applicant does not agree with staff's decision, the use permit will be brought before the Commission.

Commissioner Harle thought it unfair to the applicant that staff was unable to provide specifics of what uses are allowed. Mr. Kottage said there are use guidelines listed in the General Plan and additional use guidelines are listed in this staff report. For example, acceptable uses are furniture and antique stores, barber shops and beauty shops, bookstores etc. It would be impractical to try to list all store types and variations on each of those types especially given the sensitivity of the peak hour traffic to different types of uses.

Commissioner Yarish thought the Town should establish a standard list of allowable uses which will also be helpful for future applications.

Jerry Kler said that egress and ingress to Sir Francis Drake was originally allowed by the Town Engineer and that is why it was included in the application. Now staff is saying it is not the most efficient approach.

Mr. Lane said he would have used DKS to provide a Traffic Study and did not understand why staff was unable to get a copy of the Caltrans study which relates specific uses for traffic generated for a 24 hour period. He said the new 10 foot wide lane will allow safe ingress to the shopping center by taking cars out of the mainstream of traffic. Also, the egress and ingress off of Sir Francis Drake will not cause problems because of the island preventing westbound traffic from making left hand turns directly into

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the center. Perhaps there could be a sign posted stating no left turn onto Madrone during peak hours. With regard to channel letters for the signs, they will be metal letters and will match the building and will be 18 inches high. The maximum width of the sign will be the length of the building, less 3 feet on each side. The proposed building has wood siding.

Mr. Kottage explained that during a preliminary traffic study he did tell the applicant that ingress and egress to Sir Francis Drake was acceptable however additional information developed during the Planning Commission hearings, have lead to the employment of a traffic engineering specialist, who has in turn, provided the new opinion on the optimum way to control traffic flow to and from the Center.

Commissioner Julin wondered where the parking lot lighting plan and sign theme were, both of which the Commission had asked for at a previous meeting. She was unclear why the parapet needed to be high when heating, ventilation and cooling units are only 4 feet high. It is her feeling that the parapet adds bulk and is not necessary. She also suggested that the trash receptacle facing Bella Vista be concealed.

Mr. Lane said that usually a detailed lighting plan is presented at the building permit stage however he offered that there will be 4 or 5 light standards in the parking lot. Mr. Kler said the parapet height is part of the design of the building and that the proposed design does enclose the trash receptacle. shrubbery will also be planted around it.

Marshall Jainchell, Bubbas Diner, asked what kind of tenants the applicant envisioned? Mr. Lane said he did not want to provide fast food or drive through restaurants but envisioned Mom and Pop franchise's such as , a cleaner, video store or optical store.

Commissioner Kroot said he liked the approach in which staff would review the application for each use. With regard to ingress and egress onto Sir Francis Drake, he did not see it as a problem because the entrance is set back from the street. However he was still undecided because of the information contained in John Roberto's report. With regard to design of the building, he thought it was still a little high, although he liked that the design was a bit calmer than the previous design. He had asked for a cross section of the building and that cross section is still missing from the application. He noted that there is still no information on signs and lighting.

Commissioner Yarish was in agreement that staff should review each use but would still like to establish some rough guidelines. Regarding egress/ingress to Sir Francis Drake, perhaps the first 30 feet towards Bella Vista from the entrance should be painted red so people entering and exiting the Center will have a better view of the traffic. With regard to height, his first thought was that the building could be reduced a few more feet but he now believes it might look too squat if reduced in height. The color is acceptable and the design is an improvement over the last.

Commissioner Harle did not object to the design of the building. With regards to egress and ingress, he did not find the traffic engineer's insight that important and if the applicant felt the need to have ingress and egress on Sir Francis Drake, then he would approve it.

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Mr. Lane felt that allowing only egress to Sir Francis Drake would cause a problem with flow of the cars in the parking lot. Also, there has been no consideration given to the residents on Madrone regarding the excess traffic associated with forcing ingress and egress to be on that street.

Commissioner Hayes thought the idea of use permits being reviewed by staff was good. With regard to ingress and egress, staff is trying to minimize the interruption to flow of traffic on Sir Francis Drake although there might be some confusion by Center shoppers because people will think there should be an entrance from Sir Francis Drake. With regard to design, the building still seems tall, massive and industrial looking although it is better than the first design. He would like to see a wood treatment and darker colors rather than the light colored stucco design. He asked if there will be a sign for the entire building.

Mr. Lane said there will be a monument sign approximately 4 feet by 6 feet that will be located by the entrance. The normal procedure is that signage takes place at a separate review.

Commissioner Julin agrees that each tenant should go before staff for review and that staff's decision is appealable to the Commission. Egress only on Sir Francis Drake is a good idea because it will protect the commute and the red zone proposed by Commissioner Yarish was worth considering. With regard to the design, she felt it was too bulky, does not care for the materials and would like to see wood and/or darker colors. She felt that this is an important site with regional significance. Commissioner Julin thought it disturbing to have asked for information at two subsequent meetings and still not have the information from the applicant.

Chairman Sias would like to see egress and ingress from Sir Francis Drake if it is not a detriment because he thought the traffic volume may be too much for Madrone. He could see painting part of the curb on Sir Francis Drake red and would like to see only two on street parking spaces on Sir Francis Drake between Madrone and Bella Vista. There should be signs posted to prevent hazards, perhaps a "No Left Turn" from Sir Francis Drake onto Madrone during commute hours. He can support staff's reviewing the use permits. He said he could live with the colors proposed but still would like to see the height decreased by a foot or two. He would like to see a proposal for the shopping center sign.

Commissioner Julin thought this application was still incomplete and that too much was left to the imagination.

Commissioner Kroot thought staff could review the Planning Commission's comments and take a look at the ingress, egress on Sir Francis Drake Blvd to determine if it would create a safety hazard and if a red zone would mitigate a safety hazard that was created.

M/S Harle, Yarish to approve the design as presented for C-221 - M. S. Partnership, La Mancha Development Company, 805 Sir Francis Drake Boulevard, A/P 6-082-14, design review of a new commercial building in a C-3 District.

#### Discussion

Commissioner Yarish asked the applicant if he would be opposed to lowering the height from 20 feet to 19 feet. Mr. Kler said it can not be lowered because the building will then look squat, adding that the height limit for this zone is 35 feet.

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Commissioner Hayes stated that there could be no vote on design review without first voting on the negative declaration.

M/Harle, to withdraw his motion until a vote on the negative declaration took place.

M/S Yarish, Harle, to approve C-221 - Negative Declaration for La Mancha Development Partnership, that the project will not have a significant effect on the environment due to the mitigations outlined in the Preliminary Conditions/Mitigation Measures. That additional conditions be that: ingress and egress be permitted on Sir Francis Drake Blvd. and that a maximum of two parking spaces be permitted on Sir Francis Drake between the entrance to the Center and Bella Vista and a minimum of 30 feet of unobstructed space be created prior to the driveway to ensure safe access. This approval relates to drawings received on February 3, 1989.

#### Discussion

Commissioner Julin thought it premature to include the ingress and egress to Sir Francis Drake as part of the mitigations of approval because there were still some unresolved questions regarding traffic safety. She did not see how the negative declaration could be voted on without the all the information.

Commissioner Hayes was in agreement with Commissioner Julin in that the Commission has asked for additional information and now it is included in the motion for approval.

Commissioner Yarish suggested leaving the issue of Sir Francis Drake Blvd. ingress and egress safety up to staff.

Commissioner Harle noted that not all the Commissioners were asking for additional information and he now feels satisfied enough with the information provided to make a decision.

Commissioner Kroot thought perhaps the motion was too detailed and was not sure why ingress and egress needed to be included at the negative declaration level, adding that if the previous mitigations were adopted, then the whole safety issue related to ingress and egress and parking on Sir Francis Drake could be handled at the staff level.

M/S Yarish, Harle, to revise the motion by striking the following words from the previous motion "That additional conditions be that the ingress and egress be permitted on Sir Francis Drake and that a maximum of two parking spaces be permitted on Sir Francis Drake Blvd between the entrance and Bella Vista and a minimum of 30 feet of unobstructed space prior to the driveway."

The revised motion by Yarish, Harle was then voted on.

Ayes: Hayes, Harle, Julin, Kroot, Yarish, Sias

M/S Harle, Yarish, to accept the designs as presented according to the drawings received February 3, 1989.

#### Discussion

Commissioner Kroot asked if this motion was only part of the approval.

Chairman Sias thought it is a partial approval that covers the height, colors, but does not include the traffic or lighting.

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Commissioner Hayes stated that the whole issue would be decided by passage of this motion and there would be no further hearing.

Commissioner Harle said he intended to imply that it should only include approval of the exterior design.

Commissioner Hayes said the design review is before the Commission and there are different elements that pertain to the design review. He thought the motion needs to clearly address all the elements.

Chairman Sias thought that the whole issue would come back to the Commission for a resolution of the issues that are still unresolved. Given that, he wondered what the advantage was for this particular motion and thought perhaps it should be continued until the questions are answered regarding traffic, signs, design review relating to height and color, parking and lighting.

Commissioner Hayes said it seems that some of the Commission are in favor of approval at this time and some Commissioners need further information. His concern is that the motion should be very specific on what is being decided.

M/ Harle to withdraw his motion based on the previous discussion.

Chairman Sais thought there was a consensus that additional information is needed on signage.

Commissioner Yarish understood that sign review could be a separate process.

Mr. Lane noted that sign review is commonly handled separately.

Mr. Kler said he can't understand why lighting is so important because it has nothing to do with the actual design of the building. He asked if the motion could be for the building as presented and exclude the signage and the lighting.

Chairman Sias summarized the position of the Commission as follows: The Commission is asking for additional information on ingress and egress on Sir Francis Drake from staff and staff was also to look at how many parking spaces, if any, could be left on Sir Francis Drake. He thought the consensus of the Commission was to have each new business apply for a use permit, with staff making a decision on acceptability. Staff's decisions would be appealable to the Commission. With regard to the colors submitted, he thought the consensus was to go with the those submitted by the applicant. He was not clear on what direction to give the applicant regarding facade, because some Commissioners felt it may be too tall, but they could accept it, while two Commissioners could not accept the design at all.

Commissioner Kroot thought that the only outstanding issues were related to the traffic on Sir Francis Drake and lighting. Some of the Commissioners were for the design as presented and some not.

Commissioner Harle stated that his original intent in making his motion was limited to clarifying the design of the building. However there does not seem to be a practical way of separating the design issue from the other issues.

Commissioner Kroot said he would still like to see a cross section of the building.

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Commissioner Julin wanted to incorporate by reference all her previous requests.

Commissioner Harle was willing to vote on the design as it stands.

Commissioner Hayes was not willing to vote for the design as it stands. If there was no redesign of the building he would not be willing to vote for it, however, if the majority think the design is fine then there could be a vote. Perhaps a straw poll should be taken to get a census as to how the Commissioners feel.

A poll was taken and Commissioner's Julin and Hayes were not for the design as shown. Commissioner's Harle and Yarish could support the current design. Commissioner Kroot and Chairman Sias would support the design, but if it was continued, they would like to see cross sections of the building.

Mr. Lane wanted the Commission to vote tonight. He felt the majority were in support of his application. With approval, he would be willing provide a plan of the lighting, a cross section of the building and a separate sign plan for a separate design review.

Chairman Sais wondered how traffic is tied to this application. He thought there were some legitimate questions remaining relating to traffic safety.

Mr. Kottage said the Commission could condition the approval by stipulating egress and ingress onto Sir Francis Drake be allowed unless it creates a safety problem as determined by staff.

M/S Yarish, Harle, to approve C-221 - M. S. Partnership, La Mancha Development Company, 805 Sir Francis Drake Boulevard, A/P 6-082-14, design review of a new commercial building in a C-3 District, subject to the conditions discussed during this meeting including the following: sign review and parking lot lighting will be subject to a submission of separate applications and that staff shall determine whether or not egress and ingress from Sir Francis Drake can be handled safely. This approval is based on drawings received February 3, 1989. That the exterior of the building will employ the wood option, that the colors chosen at the meeting and that is further conditioned by the mitigations listed in Exhibit "A" in the staff report dated February 3, 1989.

Ayes: Harle, Yarish, Kroot, Sias  
Noes: Hayes, Julin

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

2. V-2267 - Barry Samuels, 14 Foss Avenue, A/P 7-232-22, a 6 foot east sideyard variance to construct a covered porch within 2 feet of the east side property line.

The applicant was present.

Lisa Wight presented the staff report.

Mr. Samuels said he met with the down hill neighbor and has decided that he will not add a roof to his porch. He has planned to soften the handrail but use the same heights.

All the Commissioners were in favor of this application. Commissioner Hayes suggested approving the application in principal even though there are no new drawings submitted showing the information introduced tonight.

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Lisa Wight noted that the variance will now change from 6 feet to 4 feet and suggested the motion include that the railing shall be opened.

M/S Hayes, Julin, to approve V-2267 - Barry Samuels, 14 Foss Avenue, A/P 7-232-22, a 4 foot east sideyard variance to construct a covered porch within 2 feet of the east side property line on the grounds that with the implementation of this variance to proceed as follows: The following guiding principals be followed: 1. softening of the handrail from its original design; 2. that the handrail be open; 3. that the roof and arches be deleted over the porch; 4. with judgement about final conformance of drawings to these principals be decided by staff, appealable to the Commission. Approval of this variance is based on the grounds that this variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner; and the granting of such 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 will not be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood and that it is necessitated by the special circumstance that the close proximity of the house to the side property line. This is based on the date of drawings revised on December 20, 1988 and further revised at tonights meeting.

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

C. PUBLIC HEARINGS

1. C-222 - Susan Ciochetto, Cotton Basics, 554 San Anselmo Avenue, A/P 6-102-15, design review of a color change to the building, a window box, and an awning.

The applicant was present.

Lisa Wight presented the staff report noting that this is before the Commission because staff was not sure the white building with blue awning would look against the brick.

Susan Ciochetto said she wanted to change the look of the store to compliment the types of fabrics she will be selling and wanted to set herself aside from Caffe Nuevo. She noted that because of the vandalism she would like to have her planter box on wheels so it could be brought in the store at night. She was proposing a rectangular design.

Lisa Wight said that staff could review the change in the window box to ensure there is no obstruction of the sidewalk.

Marshall Jainchell, Bubbas Diner, thought there needed to be some specific changes in the downtown area to help business. He thought the colors would compliment the business and the awning will cover most of the front.

Commissioner Julin was not in support of the applicant for the reasons stated on the staff report.

All the rest of Commissioners were in support of this application.

M/S Harle, Kroot, to approve C-222 - Susan Ciochetto, Cotton Basics, 554 San Anselmo Avenue, A/P 6-102-15, design review of color change to the building, an awning, a window box, and sign on the basis that 1. it is functionally and aesthetically compatible with the existing improvements and the natural elements in the surrounding area; 2. provides

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for protection against noise, odors, and other factors which may make the environment less desirable; 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; 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 5. Will not adversely affect the health and safety of persons using the improvement or endanger property located in the surrounding area. This approval is based on the drawings dated January 20, 1989 and with the understanding that the design of the window box can be modified to be rendered portable.

Ayes: Hayes, Yarish, Kroot, Harle, Sias  
Noes: Julin

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

2. V-2266 - Cliff Johnson, Between Summit Road and Scenic Avenue, A/P Nos. 7-031-06 and 7-031-19, a 20 foot frontyard variance to construct a driveway approach ramp and parking deck within 0 feet of the front property line; a 14 foot frontyard variance to construct open stairs within 0 feet of the front property line; a 1 foot frontyard variance to construct a dwelling within 19 feet of the front property line; a 6.5 foot southeast sideyard variance to construct a dwelling within 1.5 feet of the southeast side property line; a 4.5 foot southeast sideyard variance to construe an open deck within 1.5 feet of the southeast side property line.

The applicant and his Realtor, Gary Armer were present.

Lis Wight presented the staff report.

Commissioner Kroot to abstain from this application.

Mr. Johnson said if the deck was not there they would need a 90 foot ladder to wash the windows and he was asking for no more than the lot next door has.

Howard Blair, 53 Summit, has no objections to the house because is will not be visible from Summit but is concerned about the color, drainage and access to the site on a very narrow road. He asked about parking for construction workers, road closure due to concrete trucks and repair of the road that has already been damaged by a another house being build at 57 Summit.

Steve Lawrence, 45 Summit, felt the distance between the house is fine and the design of the house is fine but is concerned about the narrow road and damage that may be caused during construction.

Bob Reynolds, 80 Summit, said the width of the road is 12 feet and it is difficult for concrete trucks to access it. He said the soils report said soil was to be excavated out for the foundation and would like to see a plan on how it will be done.

Cliff Johnson said he would like to have the parking deck done first so the construction workers will have off street parking. He noted that his lot has been legal for 75 years and over impaction is caused by the subdivision at the top of the hill. He said the colors proposed for the house are earth tones.



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Commissioner Harle was in support of the variance, adding that the south side variance just touches the corner of the adjacent lot.

Commissioner Hayes was in support of the application, noting that normal building permit procedure would be to require a bond for the road.

Commissioner Julin was in support of the application but stated the building could be smaller which would reduce the side setback.

Commissioner Yarish said this application would pose no threat to the neighbors but thought a condition would be that the deck be completed first to allow for parking of the contractors on site.

Chairman Sias echoed the comments of Commissioner's Julin and Yarish.

Ms. Wight said the motion should also be conditioned that the lot line relocation be done.

M/S Yarish, Harle, to approve V-2266 - Cliff Johnson, Between Summit Road and Scenic Avenue, A/P Nos. 7-031-06 and 7-031-19, a 20 foot frontyard variance to construct an approach ramp and parking deck within 0 feet of the front property line; a 14 foot frontyard variance to construct open stairs within 0 feet of the front property line; a 1 foot frontyard variance to construct a dwelling within 19 feet of the front property line; a 6.5 foot southeast sideyard variance to construct a dwelling within 1.5 feet of a portion of the southeast side property line; a 4.5 foot southeast sideyard variance to construct an open deck within 1.5 feet of a portion of the southeast side property line on the basis that: 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 classification specifically that the parking deck is not unusual for a downslope approach of this nature and seems that in this case the approach will cause the least disruption to the natural topography; 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 located; and other properties in this area have identical types of parking and driveway conditions; 2. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner; and 3. The granting of such 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 materially detrimental to the public welfare or injurious to property or improvements in such neighborhood, specifically that various neighbors have voiced no objections to this idea. This is based on drawings dated 12/30/88. Conditions are that the car parking deck be completed and functional prior to the remaining portions of the house be completed and that the lots have to be merged prior to issuance of the building permit.

Ayes: Harle, Hayes, Yarish, Julin, Sias  
Abstain: Kroot

The audience was advised of the ten day appeal period.

3. V-2268 - Cyrus Ansari, 94 Berkeley Avenue, A/P 5-165-35, an 18 foot rearyard variance to construct retaining

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wall within 2 feet of the rear property line; a 5 foot rearyard variance amendment and a 20 foot frontyard variance amendment to enclose the lower area of a previously approved parking deck within 15 feet of the rear property line and 0 feet of the front property line.

The applicant and his contractor were present.

Lisa Wight presented the staff report.

Mr. Ansari said that Herzog and Associates April 1988 soils report indicates that the retaining wall is necessary to prohibit creepage and therefore the retaining wall is mainly for his safety and that of his neighbors. He is proposing a retaining wall between 3.5 feet to 8.5 feet in height.

Lisa Wight said that the Assistant Director of Public Works feels there is no need to exceed a maximum of 5 feet for the retaining wall.

Mr. Ansari thought all his neighbors were in agreement with his variances with the exception of the neighbors at 84 Berkeley. He said he has spent thousands of dollars trying to upgrade his property and has been denied all variances except those which the Town feels is a liability.

The applicant's contractor said the space below the parking deck is wasted space and the retaining wall is to increase the stability of the land.

Russell Kawahata, 84 Berkeley, said a petition has been signed by all the neighbors stating we are all against his variance to enclose the parking deck. Herzog's report indicates the enclosure should not be attached to the house and that Mr. Ansari has asked for a similar variance on two other occasions to enclose the parking deck and has been denied. He does not object to the retaining wall but wants assurance that it will be fully engineered and constructed properly. He would like to see that the current outstanding permits are finalized prior to issuance of further permits because of the unsightliness of the property. He did not think there is adequate erosion control.

Marlene Kawahata, 84 Berkeley, is in support of the retaining wall but is not sure that fruit trees could grow in that location to cover the wall. She was against enclosing the car deck as it would loom over her property.

Greg Smith, 97 Brekeley, thought enclosing the car deck would create a looming effect.

Mr. Ansari stated there is a restraining order against the Kawahata's now and the records show that they were satisfied with the erosion control. He does not understand why they are now questioning it.

Commissioner Hayes did not support the carport and did not feel he had enough information pertaining to the retaining wall as to what it would look like and where it was to be placed.

Commissioner Julin questioned the number of permits outstanding for the applicant and stated she will only approve the minimum height required for safety for the retaining wall. She was not in support of enclosing the car deck.

Commissioner Kroot opposed enclosing the car deck and would support the retaining wall if it did not exceed 5 feet.

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Commissioner Yarish was opposed to developing the space under the carport and said there was a discrepancy on the two sets of drawings showing the retaining walls. Therefore, he thought perhaps a survey was necessary. He noted that the retaining wall would cost approximately \$30,000 - \$40,000 and would be 70 feet long, so he would like to see if the retaining wall is required for the safety of the house.

Commissioner Harle echoed the comments of his colleagues. Chairman Sias had nothing to add.

Mr. Ansari said the staff report recommends the retaining wall for the safety of the house.

M/S Kroot, Harle, to approve V-2268 - Cyrus Ansari, 94 Berkeley Avenue, A/P 5-165-35, an 18 foot rearward variance to construct a retaining wall within 2 feet of the rear property line on the basis that 1. Due to special circumstances applicable to the property, specifically that the wall is necessary to stabilize the slope below the house; and 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 classification; 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, specifically that the wall is built as shown on the plans dated 7/11/88, is fully engineered and does not exceed five feet in height; and 2. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner; and 3. The granting of such 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 materially detrimental to the public welfare or injurious to property or improvements in such neighborhood.

#### Discussion

Commissioner Hayes asked if there was enough information to make a decision.

Commissioner Julin asked if there was a need for the wall.

Commissioner Yarish was concerned if the retaining wall was necessary for creepage or for holding loose soil.

Chairman Sias thought the soils report recommended that the wall should be built without regard to fill

Chairman Sias asked staff if the Assistant Director feels that in any case a retaining wall is necessary? M. Wight responded by saying the staff report said it should be utilized around the northern and eastern perimeter of the eastern parking deck. Commissioner Hayes thought it should be just around the carport to stabilize it and the applicant is also proposing it to go across the rear of the house also.

Commissioner Yarish referred to the soils report that talked about slope instability because of fill adjacent to the structure.

Mr. Ansari said that referred to fill that was placed there when the house was built, previous to the time he purchased the property.

Chairman Sias thought the entire property was suspect in that there is a cracked foundation, and a soils report that

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recommends a retaining wall to stabilize it. A 70 foot wall is probably what is necessary.

Commissioner Hayes is still not convinced that it is all necessary and needs more information.

Peter Greenwood said he is a Civil Engineer and is not familiar with the application but thought if there are so many unanswered questions, perhaps the engineer should be present to respond to the concerns before the Commission makes a decision.

Commissioner Yarish said it is possible that there is two to three times more retaining wall than is necessary to protect the house. If the risk of sliding materials is not acceptable, the soils report recommends removing the sliding fill during construction or compacting fill.

Commissioner Julin asked the retaining wall was necessary if if one of the recommendations was to remove the fill.

The applicant's contractor said that the reason Mr. Ansari is building the \$40,000 retaining wall is to protect himself and the neighbors.

Chairman Sias thought the consensus was that more information regarding soils was needed before a decision could be reached.

Mr. Ansari said he has provided sufficient soils information for the Commission to make a decision, asked for his plans back from the Commission and left the Council Chamber.

M/S Kroot, Harle, to withdraw his motion for the retaining wall because there are unresolved questions.

Mr. Greenwood thought that in all fairness to the applicant, the Town Engineer and applicant's Soils Engineer should be present to answer questions.

M/S Yarish, Kroot, to deny V-2268 - Cyrus Ansari, 94 Berkeley Avenue, A/P 5-165-35, a 5 foot rearward variance amendment and a 20 foot frontyard variance amendment to enclose the lower area of a previously approved parking deck within 15 feet of the rear property line and 0 feet of the front property line on the grounds that the granting of the variance will constitute a grant of special privileges, specifically that the car deck looms over adjacent properties and extends a situation that already looms over the existing properties.

All ayes. Motion unanimously passed.

The audience is advised of the ten day appeal period.

M/S Yarish, Hayes, to continue V-2268 - Cyrus Ansari, 94 Berkeley Avenue, A/P 5-165-35, an 18 foot rearward variance to construct a retaining wall within 2 feet of the rear property line on the basis that because of the nature, size and scale of the retaining wall, there should be a presentation by the soils engineer to present reasons for the nature and the size and scale of the wall as proposed. This is continued to the meeting of March 6, 1989.

All ayes. Motion unanimously passed.

4. V-2269 - Deniz Milasi, 78 Longwood Drive, a/P 6-262-08, a third story variance to construct an addition.

The applicant and her architect were present.

Lisa Wight presented the staff report.

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All the commissioners were in support of the variance.

M/S Kroot, Julin, to approve V-2269 - Deniz Milasi, 78 Longwood Drive, A/P 6-262-08, a third story variance to construct an addition on the basis: 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 classification; 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 located; specifically that the third story will be within the house in the existing walls and 2. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner; and 3. The granting of such 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 materially detrimental to the public welfare or injurious to property or improvements in such neighborhoods particularly in that the space is already existing below the house in the back and completely separate from the neighboring properties. This is based on the drawings dated 11/27/88.

All ayes. The motion unanimously passed. The audience was advised of the ten day appeal period.

5. V-2270 - and NU-63 - Tim Mahoney, Jr., 66 Durham Road, A/P 5-202-24, a 6 foot east sideyard variance for required on site parking spaces to be within 2 feet of the east side property line due to a garage conversion; and a use permit for a new second living unit in an R-1 district.

The applicant was present.

Lisa Wight presented the staff report.

Mr. Mahoney thought he would have adequate parking with some modifications to his driveway. He wants to use the second unit for his parents.

All Commissioners approved of the variance and use.

M/S Kroot, Julin, to approve V-2270, Tim Mahoney, Jr., 66 Durham Road, A/P 5-202-24, a 6 foot east sideyard variance for required on-site parking spaces to be within 2 feet of the east side property line and substandard in size on the basis that 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 classification; 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 located, specifically the driveway and parking area already exist and are adequate and to widen would kill a 20 foot wisteria; 2. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner; and 3. The granting of such 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 materially detrimental to the public welfare or in \*jurious to property or improvements in such neighborhood.

PLANNING COMMISSION MINUTES  
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All ayes. Motion unanimously passed.

M/S Kroot, Julin, to approve NU-63 - Tim Mahoney, Jr., 66 Durham road, A/P 5-202-24, a use permit for a new residential second living unit in an R-1 District on the basis that: 1. Falls within the maximum number of second residential units authorized by resolution of the Council for the single-family residential use area in which the unit is located; 2. Is located on an Assessor's Parcel or parcels on which the owner of record maintains his principal residence; 3. Does not encroach upon required setbacks, or cover land in excess of 40 percent, or necessitate vehicular parking within required setbacks, unless a variance shall have been granted; 4. Meets all applicable Codes in effect at the time of the establishment of the unit; 5. Has been made the subject of a rent guarantee contract between the applicant and the Town; 6. Does not cause excessive noise, traffic, parking, or overloading of public facilities; 7. Will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the Town; and 8. It is necessary for the preservation and enjoyment of substantial property rights of the petitioner. This is based on drawings dated 12-6-88.

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

D. APPROVAL OF MINUTES - January 23, 1989

M/S Yarish, Kroot, to approve minutes of January 23, 1989 as written.

All Ayes. Motion unanimously passed.

E. OTHER ITEMS OF BUSINESS

Lisa Wight proposed a special meeting on February 27, 1989 for the Nave application because the Town is getting close to the time limit on the application.

The consensus was that the meeting would take place on February 27, 1989 at 8:00 p.m.

F. ADJOURNMENT

The regular meeting of the San Anselmo Planning Commission was adjourned at 1:30 a.m. to the next special meeting of February 27, 1989.

BARBARA CHAMBERS  
ADMINISTRATIVE SECRETARY/TECHNICIAN