

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MINUTES FOR THE MEETING OF JUNE 13, 1994**

The special meeting of the Planning Commission was convened at 8:00 p.m. in the Council Chamber by Vice Chair Israel. Staff present was Planning Director Ann Chaney, Planning Consultant John Roberto and Town Attorney Hadden Roth.

A. CALL TO ORDER

Commissioners present: Harle, Julin, Sargent, Ollinger, Hayes, Israel
Commissioners absent: Mihaly.

B. OPEN TIME FOR PUBLIC DISCUSSION

C. PUBLIC HEARINGS - CONTINUED

1. **V-9406 - Michelle Chouinnard, 208 Sequoia, A/P 6-114-01, a variance request to: 1) allow the applicant to relocate a spa off the neighbors property to within 1' of the side property line (8' is required); 2) to relocate a trellis and arbor off the neighboring property and be within 0' of the side property line (3' is required); and 3) to allow portions of a fence and trellis to be 9' in height (6' is permitted); 4) to relocate an existing 192 square foot arbor that encroaches 4" on the neighbors property and will be within 0' of the side property line (8' is required) on property located within the R-1 Zoning District. (After-the-Fact) Note: The spa and portions of the fence trellis and arbor currently encroach into the adjoining property. CONTINUED TO THE MEETINGS OF JUNE 13, 1994 AND JUNE 20, 1994**

D. PUBLIC HEARINGS

1. **Oak Avenue Master Plan and Development Agreement - David Hansen APN's 7-154-02, 7-154-05; Michael and Linda Gill APN's 7-154-08 and 09, 7-154-11, William Broderick APN's 7-154-10, 7-201-02, 7-201-12; The project site is located on the northeastern slope of Bald Mountain. It is bordered by Oak Avenue and scattered residential housing to the north and east, and by open space to the south and west. The subject property is comprised of 8 parcels of land totaling an estimated 16.2+ acres. The proposed project, which includes a master plan and development agreement, focuses on buildout of some, but not all, of the properties at the end of Oak Avenue. The proposed master plan and development agreement seek entitlement to construct four (4) new homes, appurtenant structures, and infrastructure improvements. The documents do not include the design level information required by the Town to approve specific homes or any of the other entitlements needed before construction can begin.**

Applicant Michael Gill, and Attorney Neil Sorensen, and Environmental Planner Scott Hochstrasser were present to represent Michael Gill.

Ms. Chaney stated that she has made revisions to Exhibit I and the ordinance. She will answer questions if there are any. She outlined the outstanding issues that are in the staff report. She also addressed the addendum which has answered some of the questions in the staff report. They are to amend 25.C(a); Condition No. 25.A.

Mr. Roberto discussed the affects of the wells to the springs on the Seminary property. The worst case is that there would be no water available to the Seminary. CEQA would therefore deem this significant and would require a mitigation measure. If there is an impact, and Oak Avenue was responsible, there are three options available: 1) MMWD could provide water but there would be a cost to Oak Avenue; 2) the property owners of Oak Avenue would drill another well for the Seminary and provide the cost; or 3) Oak Avenue owners purchase the water and truck the water in to provide the water for the Seminary. If one of these measures was used, the mitigation could be reduced to insignificant. If the wells do not meet criteria for performance, there would be no approval of tentative map. The Commission might want to include a draw down affect, providing additional information in the decision making process and thereby not being detrimental to the homeowners.

Mr. Roth asked about the affect on other wells. Mr. Roberto said if there is an affect on other wells there is no degree of specificity to know which other properties with wells are affected.

Oak Dowling, attorney for the Seminary, said he received the notice of Oak Avenue Master Plan. The Seminary does not have an objection to the development however the drilling of the well could create an adverse impact on the Seminary spring. There are two springs on their lot; they feed into the tank lot, and there is underground piping to the tank lot, the underground pipe goes downhill to Oak and to Austin and to Bouick Field. The water source was there when they acquired in 1890. The water is quite pure and almost potable. The relationship to the Gills is important. After MMWD came in, it was then used for irrigation. The water is available for fire purposes and they have a spigot to be used by the Fire Department. The water is also available during disasters to the public. When the Seminary Master Plan was submitted to the Town, MMWD said they could have no more water allotment for the field. They have retained Mr. Dwyer who is a Geologist. They are paying for his services and are willing to do this although it is for Mr. Gills project. They are concerned that the proposal could have an adverse impact on them or other springs. Mr. Dwyer will look into this. This could also impact the landscaping and foliage on Bald Hill. It should be stressed that this could impact the community, not just the

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Seminary. They are trying to come up with a report by June 27th, but would like it extended to July 11th. If they are doing anything reasonable, they will need additional time. There is a difference between a spring and a well and this is also a concern to the Seminary. He suggested to Mr. Roberto that MMWD be a factor. He felt that should be considered by the Planning Commission.

Anthony Letwidsky, Seminary, Chief Business Officer, stated that there is no intention to oppose the development on Bald Hill. Their prime concern is the water source

One of the conditions of the Master Plan of the Seminary stated that MMWD would not allow for more water to the Seminary. Because of the spring they are able to provide the field to the community.

Mr. Dwyer, Geologist, said they have just started and are in the data collection process. It has become evident that the scope of the study should be widened. His investigation is more specific than Mr. Kresse. His questions and comments are: No. 1: Are the aquifers the same or different? No. 2: How many significant springs are on Bald Hill? No. 3: They will prepare a water budget (how much water is coming in and going out). They want to find out how much water is available on Bald Hill. No. 4: Spring is fed by gravity; when there are wells, and they are pumped, the water table can be tapped and the spring can go dry. No. 5: the spring and development are closer than indicated. No. 6: Kresse's is more specific than his. No. 7: Ground water volume: No. 8: Pump tests: Is it feasible to drill on the Gill and Seminary properties? No. 9: On large estate side lots, they can often use up to 1,000 gallons per day; No. 10: The geology is more complex and therefore they have expanded their work; Page 4: They do not know if these wells will be eventually distributed. In conclusion, they need to do a more in depth research. He said that it is impossible to provide the necessary information prior to July 11th. Regarding mitigations: It seems to him that the best water is the spring they already have. Some of the mitigations are not a sure thing. It would be cost prohibitive to truck in water.

Mr. Roberto asked if this would be considered a preliminary report. Mr. Dwyer said that they would also do water chemistry. Mr. Roberto wondered if this will have a typical water table or will it be as complex as that for Mr. Burdell. They are dealing with bedrock permeability, Mr. Dwyer said with the water budget, and water chemistry they will have a good picture on the impact to the Seminary. Mr. Roth asked what could be done by the 27th. Mr. Dwyer said that when they provide significant insight to the project, he will contact Mr. Dowling. He envisioned they will do their analysis and give them answers prior to it being on paper. Mr. Roth asked if they will evaluate all the wells in the water budget. Mr. Dwyer said that Mr. Hex will evaluate that. Most of their analysis will be on the west, north west of Bald Hill.

Commissioner Hayes asked if these issues could be addressed completely by July 11th based on the complexity of the project. Mr. Dwyer said they want to get to a level of certainty to represent the Seminary if there is a detriment. They will have a much better handle on this when their research is complete. Commissioner Hayes said that Mr. Roberto indicated that there may be irreconcilable differences in a few weeks to reconcile information. Mr. Roberto said that the Commission has to reconcile the worst case scenario. Mr. Roth said that this does not dwell on water rights, only to see if a EIR is necessary. Mr. Roberto said that any of the lot owners could draw a well for irrigation without a public hearing. He said the question of a water table is a major undertaking. Mr. Dwyer said he is looking at other springs to be able to better access the Gill's impact on the Seminary. Also, what are the broad environmental impacts to the project. Mr. Roberto said his memo speaks about the worst scenario. Mr. Roth said it is his understanding that all the water must be shared with all the property owners. Mr. Dwyer said his evaluate if CEQA related to see the environmental impact on the wells and springs.

Commissioner Harle asked what would happen if someone would request an EIR. Mr. Roth said it would be a law suit. Mr. Roberto said that the applicants have not concurred with the three mitigation measures. In this case, the mitigations have to be done to approve the Negative Declaration.

Commissioner Harle asked if the spring or the well was higher on the hill. Mr. Dwyer said that they are very close. Mr. Roberto explained the process of how a well is approved. He went on to explain, that prior to any building, this study has to be done. Mr. Dwyer said it would be very important to get information of the pumping of the water for the wells. Mr. Dwyer would like to see the studies done as part of CEQA.

Mr. Roberto said no building will take place until they can determine the feasibility of water.

Commissioner Israel asked Mr. Dwyer about the feasibility of the three mitigation measures. He also wondered about the future of landscaping and the Negative Declaration.

Commissioner Sargent asked how much water has been used in a day. Mr. Letwidsky said they have been known to drain the two, 5,000 gallon tanks, although that is not typical.

Commissioner Sargent asked if the Fraser property would have an affect on the spring and how would other impacts be defined? Ms. Chaney said that one of the lots off of Oak Avenue has a spring and there is also a spring on Redwood Road for Fraser. She also said that the maximum houses above 450 mean sea level are between 9 and 14.

Commissioner Sargent said the project has a suggested 10 year agreement, and he wondered how they can pin down the mitigation measures to these properties when others could come in earlier than these properties. Ms. Chaney said this was a concern when they adopted the well ordinance.

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Commissioner Israel asked the Seminary about the mitigation measures. Mr. Dwyer said that to hook up the field to MMWD he would question the cost and would it be born in perpetuity? Regarding the water lost to loss of gravity - this is the most reasonable but there are issues of the location; will it be on the Gill property, on the Seminary spring property, or on the Seminary itself?

Jonathan Braun, 479 Scenic, said that he has heard no discussion about the Asia Alliance property and the affect of that property should be considered. He questioned page 8 - Off Site Improvements. Ms. Chaney said that the sewer has been extended and therefore should not be included in the off site improvements. Mr. Braun said that Mr. Fraser is doing both short term and long term improvements and therefore felt that Mr. Gill should also do this.

Bill Abright, 190 Oak Avenue, felt there should be a clarification about the hiking trails.

Kathy Sanders, 310 Redwood Road, questioned page 13, Exhibit I - Design Guidelines - she would like to see "non-reflective" in the wording. Also: lot no 2, there were story poles, the top was 24' instead of 35'. There is nothing in the conditions that limits this. Ms. Chaney said a shorter story pole was placed on top to show the average.

Neil Sorensen, addressed the well water issue. Mr. Kresse did the analysis of the Broderick/Gill parcels as well as the environmental impact under CEQA as to whether this would be a water with recharge and/or cause a water depletion. Mr. Sorensen said the study the Seminary wants to perform will cost a lot of money and is not necessary. Perhaps the Seminary should look at the San Anselmo Well Ordinance. Another issue is the request to extend the time limit to July 11 - if they want to meet the Court deadline this date will to work. There is still another set of approvals prior to the Tentative Map for the Broderick parcel and a CEQA process. Also, the smaller Broderick lot will have a CEQA review. This is a preliminary review at this time. Regarding the mitigation issues. The applicants are in a conceptional agreement with the Town although there may be some minor wording changes. Mr. Sorensen does not think the Seminary has the legal right to the water. Everyone has the reasonable right to the ground water. They would prefer the well option as a preference however, if that did not work they would go to the next option.

Mr. Gill said the Broderick property had a spring 45 years ago and he and Hansen have springs on their properties and would be able to use them.

In response to Mr. Sorensen's statement about a legal deadline, Mr. Dowling said he is sure that Judge Brainer will extend time as necessary. Regarding rights to water use - if the water table is dropped and their spring dropped this is appropriate to discuss now.

Ms. Chaney said another unresolved issue is the deed restriction for tree protection. The applicants want the flexibility if a tree grows outside the envelope to have staff approval the remove it rather than a need for a public hearing. She said that this was available to Mr. Gill but not available for Mr. Fraser or Mr. Helfrich. However, if you agree with the applicant, she has provided an alternative wording. Regarding building envelope size and locations, staff has provided alternative wording. Regarding height, there are two methods of measuring. Staff proposes 30' and the applicant proposes a 35' height. She said that if it is 35' they could have three stories. Commissioner Israel said that if the 35' is adopted, it is more than the 24' story poles and that part of the condition should be modified. Ms. Chaney said this methodology will be based on the least impact. Regarding the gate: she quoted wording out of the stipulated agreement. The applicants have stated they would be willing to place it closer to the redwood grove. Perhaps the Commission can provide wording to staff.

Commissioner Sargent asked about wording on the Gate. The language seems to be problematic. He suggested including the word "public" or use the word "advertise".

Commissioner Julin said that it is very troubling to her if the trail is not to be shown on the County Open Space District Maps because it is for public use. Mr. Roth said that they are worried about hordes of people converging on their property. Ms. Chaney said that the intent is that the trail is to be used just for the residences in the neighborhood. Mr. Roth does not specifically remember those conditions. He felt this was a compromise to prevent a lot of advertising and not to change the historical use as well as the hordes of people converging onto the property. Commissioner Julin said that this should not be billed as public access if it cannot be reproduced on trail maps. Mr. Roth said that he does not remember any agreement regarding this. Commissioner Hayes supports Commissioner Julin that this must really be a public access although he understands the concerns of the owners. If the Town will be constrained from putting it on the maps then in fact it is not really public.

Commissioner Harle said that the agreement settles a court case on access. There is a difference on "Do Not trespass" and "public access". Mr. Roth stated that this is a compromise on the part of the owners based on the court case although there may need to be some refinement.

Commissioner Hayes asked what would happed if the trail remains status quo; could a gate then be added? Commissioner Israel said the applicants have stated that there is already a problem. Mr. Roth said that there is a concern about vehicles going down at high speeds. Commissioner Hayes said if there is no problem why put a gate up.

Commissioner Harle said the public should be interested in putting up a gate because they do not want a lot of vehicles on the road. Mr. Roth said the gate is part of the law suit. Commissioner Hayes said that he is prepared to oppose the gate even in view of the fact that it is part of the law suit. If there was no gate, would there be a lot of vehicular traffic. At some point in the future if

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it becomes a problem then the Commission can make recommendations. Commissioner Harle said if the road is improved they would increase the vehicular traffic.

Ms. Chaney said that on No. 6 she has added a new condition 21. Regarding No. 7 - timing of infrastructure - the improvement plans of the Oak Ave expansion will go directly to the Public Works Director. If the Commission wants to review it, it should be discussed tonight. She did not incorporate the non metallic materials because water tanks would be of that color. Also, tall expanses and the reason she did not use "wide" was tall could go above the trees. Commisisoner Israel said that "wide" could be just as bad as tall. If metallic has an impact off site than he is concerned, if not, then he is not.

Ollinger has no trouble putting in "wide" and has no trouble using "non reflective" or "mat reflective". Commissioner Israel would not like to see "mat" but something that give the spirit.

Mr. Roth said that all should say "all limited easements" and all San Anselmo documents should say that.

Commissioner Ollinger said that the 10 year agreement is too long and that no other owner has that luxury. Commissioner Hayes agreed with Ollinger. He said that two years is common although he would be willing to go to three years with a two year extension. The changes within the last ten years has been substantial. Commissioner Julin concurred; five years on the outside. Times are changing so fast and there is so much fiscal uncertainties. It is very difficult to deal with past extensions now and would be difficult to deal with such uncertainty in the future. Commissioner Harle said he likes the overall shape of the agreement and that it accomplished a number of things for the public. He would like to look hard at the agreement and would not want to make changes that will damage the agreement. He would not want to make a contractual agreement for someone who comes after his time - therefore three to five years sounds good, although he does not want to jeopardize the agreement. Mr. Roth said that there was an agreement reached on the easement for the gate although there was no sense given regarding the time on the agreement.

Commissioner Sargent said that a lot is accomplished in the agreement but perhaps staff should explain how many times the applicant has to come back for review. Ms. Chaney said the lot split will have a public hearing, the Hansen and Broderick properties will also have a design and Precise Development Plan. Commissioner Sargent said that this is an important agreement for the Town but 10 years is too long.

Commisisoner Israel agreed that 10 years is too long and that there is a lot of change that can take place although there is a lot to loose if this agreement is up for discussion in another five years. Also, he wanted to make sure that the spirit of a Development Agreement is not lost.

Commissioner Harle said that court cases could also change within the next few years. Commissioner Israel said that the location of the lots is very important to him but is not sure he has the information to make this decision.

Mr. Roth said it would not be appropriate for him to ask for an extension in view of the lawsuit.

Mr. Dowling said that they need the time for their review.

Commissioner Julin said the spring/well discussion may be academic and that hook up to MMWD should be required of the applicant. The mitigation prepared by staff is a burden to a property owner to have the owner dependent on someone else. Mr. Roberto said that if the Commission requires MMWD as part of the Development Agreement, the negative declaration is no longer valid. MMWD has with it a total infrastructure which goes beyond this application.

M/S Ollinger/Julin to continue Oak Avenue Master Plan and Development Agreement - David Hansen APN's 7-154-02, 7-154-05; Michael and Linda Gill APN's 7-154-08 and 09, 7-154-11, William Broderick APN's 7-154-10, 7-201,02, 7-201-12; The project site is located on the northeastern slope of Bald Mountain. It is bordered by Oak Avenue and scattered residential housing to the north and east, and by open space to the south and west. The subject property is comprised of 8 parcels of land totaling an estimated 16.2+ acres. The proposed project, which includes a master plan and development agreement, focuses on buildout of some, but not all, of the properties at the end of Oak Avenue. The proposed master plan and development agreement seek entitlement to construct four (4) new homes, appurtenant structures, and infrastructure improvements. The documents do not include the design level information required by the Town to approve specific homes or any of the other entitlements needed before construction can begin. This is continued to a special meeting on June 17, 1994, with the meeting to convene at 7:30 p.m.

Motion unanimously passed.

Commissioner Israel spoke to Mr. Dowling, stating that if the Commission assumed the worst case scenario, the mitigation measures would be in place to protect the Seminary.

Mr. Dowling still wants the extension and if it is not granted they would be disappointed.

E. GENERAL DISCUSSION

Commissioner Hayes stated he will not be present for the 6/20/94 meeting.

Commissioner Harle stated he will not be present for the 6/16/94 meeting.

F. REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

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There was none.

G. ADJOURNMENT TO THE SPECIAL MEETING OF June 20, 1994

The special meeting was adjourned at 11:30 p.m. to the next meeting of June 20, 1994.

BARBARA CHAMBERS