

**TOWN OF SAN ANSELMO
PLANNING COMMISSION MEETING DECEMBER 17, 2012**

COMMISSIONERS PRESENT: Chair Sisich, Co-Chair Brasler, Commissioners House, Krebs, Overberger, Zwick

COMMISSIONERS ABSENT: Commissioner Swaim

CALL TO ORDER

Chair Sisich called the meeting to order at 7:00 p.m.

OPEN TIME FOR PUBLIC EXPRESSION

Arianna Van Meurs, Bolinas Avenue, representing the Bolinas Avenue Neighborhood Association (BANC), discussed the San Francisco Theological Seminary's Master Plan, noting that the Seminary is slated to appear before the Planning Commission with regard to a design review application at a later date.

Van Meurs distributed photographs taken during the recent storm documenting storm water drainage issues on Bolinas Avenue. She acknowledged that Public Works Director Sean Condry has spearheaded a project on Oak Avenue, which has mitigated much of the drainage; however, Bolinas Avenue continues to endure significant flooding.

Efforts to engage the Seminary in discussions to resolve drainage issues have failed. Van Meurs is aware that frontage improvements will be required of the Seminary and believes resources should be directed toward the drainage issues, as well as the traffic safety issues, noting that a number of pets have been lost and that there have been a number of near misses involving members of the Cedars assisted living community.

Van Meurs plans to return to the future meeting at which the Seminary's design review application will be discussed.

PLANNING DIRECTOR'S REPORT

Interim Planning Director Diane Henderson noted that the next meeting of the Planning Commission is scheduled for January 7, at which time removal of the building at 535-541 San Anselmo Avenue and the subsequent construction of a park at that site will be discussed.

Henderson added that the Seminary's design review application may or may not be discussed at the following meeting on February 4, depending on whether or not the applicant has completed the proposal.

Henderson thanked the Commissioners for their efforts in the past year and observed that there are several large projects slated for the forthcoming year.

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PUBLIC HEARING ITEMS

CONSENT AGENDA

Minutes of Planning Commission Meeting of November 19, 2012

M/s, House/Zwick, to approve the minutes of the November 19, 2012 Planning Commission meeting.

AYES: Brasler, House, Krebs, Overberger, Sisich, Zwick
NOES: None
ABSTAIN: None
ABSENT: Swaim

REGULAR AGENDA

DR-1209, GP-1205, John and Kim Lewis, 610 Oak Avenue, 007-154-02: Hillside design review for plans to construct a 510 square foot free standing open air "porch" with a 65 square foot half bathroom and a 65 square foot wet bar. The project also includes plans for the construction of a 2,519 square foot sport court. A grading permit is also requested to excavate over 100 cubic yards of material. The project site is located in the R-1-H zoning district and within the Bald Hill Area Plan (Staff person: Boyle).

Senior Planner Phil Boyle circulated a color and materials board provided by the applicant and noted that several emails from neighbors supporting the project had been circulated. He further noted the inadvertent omission of the last finding with regard to the grading permit from the original staff report and made this available to the Commissioners. Boyle was able to make the finding and confirmed that it does not affect staff's recommendation on the project.

Boyle presented the staff report.

Boyle is recommending denial of the project because he cannot make the findings for design review and grading. He informed the applicants several months ago that he did not believe he would be able to support the project.

Commissioner House asked if a letter regarding the project had been received from the Fire Department

Boyle responded that a standard memorandum had been received indicating that the Fire Department had no objection to the project being heard by the Planning Commission.

Commissioner Zwick asked if the 9th finding for the grading permit application was required of all Town projects.

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Boyle confirmed that this is correct.

Zwick asked for clarification that sufficient erosion control measures would be required if the project were approved.

Public Works Director Sean Condry confirmed that this is the case.

Commissioner Krebs asked Boyle if he had received any indication of opposition to the project.

Boyle responded that there was no indication of opposition to the project.

As there were no further questions for staff, Sisich invited the applicants to respond.

Designer Wendy Posard distributed information including photographs and plans.

Sisich asked if the distributed photographs and plans had been reviewed by staff.

Posard responded that these items have not yet been reviewed, explaining that in response to the Planning Department's concerns about creating potential living space, as well as the Public Works Department's concerns about the amount of grading, her clients are now proposing to eliminate their plans for the covered porch and to move forward with their proposal for a sport court and enclosed space to accommodate garbage and bicycles.

Posard indicated that the change in plans represents a decrease in the amount of excavation and suggested that it may be possible to redistribute (as opposed to off-haul) the excavated soils to another area of the site. She added that the proposed blue grey concrete deck of the sport court can be replaced with concrete in earth tones. Further, new plans for the open air porch have reduced that feature by two thirds and mature screening is planned for the vicinity.

Posard observed that Google maps reveal many neighboring properties with visible cantilevered parking structures similar to the one proposed by her client and noted several examples of large pools and hardscaped areas built with grade beams and piers throughout the area. The applicant's neighbor has a sport court that is larger than the one he is proposing.

In conclusion, Posard addressed each of the negative findings in Boyle's report in light of the revised proposal she presented. She introduced John Lewis, the property owner.

Lewis is seeking a flat, fenced area in which his young children and the children of his neighbor can play. Further, a simple 8 x 10 structure in which to store garbage away from the house and out of reach of wild animals, as well as ample parking to augment his existing two car garage and steep slope, are desired.

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As it has been indicated that the proposed sport court would be visible from the nearby Oak Avenue Trail, Lewis noted that he has been willing to work with community members, including the Open Space Trust and he does not believe the improvements are visible or will impede any one's enjoyment of the trail. Further, Lewis noted that the trail is a limited access easement.

Lewis added that all neighbors consulted have approved the project, and that his home has the second smallest footprint on Oak Avenue in terms of lot size, parking area, and home square footage. He further observed that the original Bald Hill agreement encourages non-intrusive parking.

In conclusion, Lewis stated that fire safety is important to him and he believes that living on a ridge where fire can approach quickly makes it constructive to insure that fire trucks can reach the property, noting that Section 7 of the Bald Hill Plan indicates that access for firefighting equipment is equally important to visual aesthetics.

Sisich observed that the proposal presented by Posard and Lewis is different from the one addressed in Boyle's staff report.

Boyle confirmed, explaining that when the applicants expressed interest in revising the original project late in the previous week, he had advised them that the public notice had already been posted with regard to the original project and that staff had no means by which to redirect review to a revised project. To date, the revised project has not been reviewed by staff.

Henderson confirmed that Boyle has been working with the applicant on the original proposal for 11 months and that throughout that time she and Boyle have been in agreement that it does not meet the necessary findings. Henderson added that this is the first time in her 3 year tenure with the Planning Department that a project with a recommendation of denial has been brought to the Commissioners. After numerous attempts to persuade the applicants to generate a revised plan, it was only after the publication of Boyle's staff report that the applicant has acquiesced and revised the project.

Henderson concluded that if the applicant wishes to proceed with the revised plan, fees will need to be paid, the project will be taken through the necessary channels, including review by the Public Works and Fire Departments, and then it will return to the Planning Department for the generation of a staff report.

Discussion ensued regarding the cost recovery nature of staff's review process and the alternative ways in which the revised project may return to the Commission for review.

Krebs questioned the wisdom of reviewing the submitted project when the applicant has indicated a desire to proceed with a different plan. He suggested asking the applicant

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whether he would prefer to continue the matter in order to submit the revised plan to staff for review in the conventional manner.

Henderson agreed with Krebs, noting that his suggestion is not different from what staff has been attempting to accomplish with the applicant. If the applicant has no intention of building what is before the Commission at the moment, it is not a good use of the Commission's time to continue the current discussion.

Overberger agreed with Krebs, understanding that staff has been working with the applicant on the original submission for nearly a year. She asked if there was any value in spending some time discussing issues around the project that are important to each of the Commissioners.

Overberger noted that she is concerned with exceeding the maximum Floor Area Ratio (FAR); other Commissioners may have other concerns and informing the applicant of these concerns might be beneficial in revising the project for resubmission.

Brasler cautioned that the applicant may be abandoning the open air porch portion of his original project under the assumption that the Commission will support staff's recommendation of denial of the project; he does not wish to proceed under that assumption.

Sisich agreed that the way to proceed is to make sure all public comments are received, close the public hearing, and have the Commissioners give their opinions, which might inform the applicant's decisions going forward.

Kelly Murphy, Oak Avenue, feels the applicant's project is important to her as a neighbor in light of the risks her family shares with the applicant's—very different risks from those of property owners who are closer to emergency services. Should there be a wild fire, having the space created by the applicant's project as a staging area for emergency vehicles is encouraging. Further, Murphy is appreciative of the applicant's family as an addition to the neighborhood and she values the way in which the applicant approaches his project in terms of the needs of the community.

A brief discussion ensued regarding the elements included in Boyle's calculation of FAR for the original proposal, what the calculation for FAR would look like for the revised project, and aspects of the proposal that may not be included in FAR but that do contribute to bulk and mass.

Zwick asked Condry if he has reviewed the proposed off-haul of soils for the project.

Condry indicated that he has considered the amount of grading that has taken at the property cumulatively. He added that this proposal is the first instance in which he feels the relatively new grading ordinance has come into play. He explained further that this kind of hillside cutting and filling is precisely the kind of activity the grading ordinance attempts to address. Condry concluded by explaining that he asks for rough cut and fill

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calculations when a project is being reviewed at the planning stage. At the building permit application stage, he asks for precise numbers and examines these more closely.

The applicant interjected to suggest that if grading is not allowed, an alternative method of attaining flat space would be to gate the limited access easement on the Oak Avenue trail; he added that this is not his preferred manner of proceeding.

Zwick asked the applicant to define "limited access easement."

According to the applicant's understanding of the original Bald Hill Agreement, with regard to trails such as the Oak Avenue trail, property owner's rights precede Open Space Trust rights. The applicant listed restrictions placed on the use of the easement, including but not limited to a prohibition against the Town promoting the space, a prohibition against the space being included on maps, the requirement of cyclists to either observing a 5 mph speed limit or to walk their bikes, etc.

Brasler asked for clarification as to where the easement begins and ends.

Murphy indicated a portion of the trail that fronts the applicant's property, explaining that access is not guaranteed for this portion of the trail.

House noted that on a visit to the applicant's property, she observed a flat front yard and suggested it would be an appropriate area for children's play.

The applicant responded that it is very difficult to accommodate visitors' parking needs because of the lack of useable parking space.

House clarified that the impetus for the project was to address the parking issue and that solving this problem afforded an opportunity to create and use more hardscape for a children's play area.

The applicant confirmed House's clarification.

Sisich closed the public hearing.

Zwick asked Boyle if the Open Space Committee had provided a recommendation regarding the project.

Boyle responded that the Open Space Committee neither strongly objected to nor strongly supported the project.

Zwick asked Boyle to determine if the existing hillside properties with cantilevered flat spaces in the vicinity of the applicant's property were built before or after the Bald Hill Plan.

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Brasler asked Boyle how close staff and the applicant have come to reaching a consensus on a project that would have garnered a positive staff recommendation to the Commission.

Boyle explained that the original plan has not changed significantly over the past 11 months, commenting that most of the discussions related to defining FAR and potential living space.

As there were no further questions from the Commissioners, Sisich asked who would like to start in voting on the original project under review.

Overberger considers even 100 cubic yards of off-haul to be excessive; therefore, she cannot make the findings for the grading permit in that regard. Further, the 5000 square foot cap instituted under FAR restrictions attempts to address the very type of bulky design element proposed in this project and, for that reason, she cannot make the finding in this regard either. Because of those two issues, she would not be able to support the original project as presented.

Krebs largely agreed with Overberger's comments. There are different ways to look at the limited access easement and just exactly what the rights of the hikers are in this regard; further, whether or not issues related to the easement and hikers' rights are important or material to the current discussion is a more complex issue. Krebs declined to weigh in, noting that he would probably err on the side of appreciating the fact that hiking access is granted. Perhaps any negative impacts on hikers' views of the project are mitigated by the fact that they are granted access to the trail.

With regard to grading, Krebs would look more favorably on the project if the amount of grading and off-haul are reduced. With regard to FAR, he would not want to set a precedent of exceeding that regulation's limits. At first glance it appears there is no FAR conflict with the revised proposal.

In conclusion, Krebs would probably make a motion to continue the hearing so that the applicant can have an opportunity to resubmit the project. He would probably be able to support the project if the two issues of concern to him are satisfactorily addressed.

House agreed with the comments of Overberger and Krebs; she shares their concerns with regard to excavation and FAR limits. She posed the question of whether or not the Commission would be happy with the large parking pad that is proposed, assuming the issues of excavation and FAR are satisfactorily resolved.

Further, House is in favor of creating a turn-around for fire trucks, although she is uncertain as to how a fire truck would access the property given the 90 degree turns that are required to do so.

In conclusion, she is concerned about the bulk of the proposed parking pad.

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Zwick agreed with the comments of Overberger, Krebs, and House. Specifically, he is in favor of the fire truck access; however, like House, he is dubious with regard to a fire truck's capability of making a three point turn on the proposed pad as designed. Zwick suggested the applicant secure a letter confirming that the Fire Department prefers the current design.

House added that she would also like to see a letter from the Fire Department confirming that they would have full access to the parking pad. When she considers the narrow road and the curve into the driveway itself, House has difficulty envisioning a fire truck gaining access.

Henderson pointed out that if the Fire Department intends to use the pad as a turn-around, the pad would need to be signed and marked for no parking, which conflicts with the applicant's goal of creating more parking spaces.

Zwick suggested that the potential conflict can be worked out with the Fire Department, noting that it is possible to widen the space/ easement so that two trucks can pass one another.

With regard to grading and off-haul considerations, Zwick observed that a lot of terracing and cut and fill have already occurred on the site. He suggested that, nevertheless, it might be useful to consider the project in terms of how many cubic yards per square foot of designated FAR-inclusive space are involved in the construction of the proposed garbage container structure. The sport court is not a factor in the FAR calculation, so the impact on FAR should be minimal.

Zwick added that when the project returns for review, he will be looking at the applicant's efforts to place the sport court aesthetically; specifically, he will look at whether or not the court is contoured with the ground, whether it is on the ground or not, and whether or not the Fire Department can actually use it.

Brasler believes it is important to respect the FAR limit. With regard to the issue of off-hauling significant amounts of soil, he suggested the applicant dig four additional piers and build a vegetable garden, thus keeping the soil on site. He has no concerns with respect to the visibility and believes there is adequate screening. In conclusion, he believes that if staff approves the revised project, he will be able to support it as well.

Sisich appreciates the efforts the applicant's team has put into the proposal and reminded all that hillside living is a lifestyle choice. He supports the staff on the original project. If staff supports the revised project, Sisich will support staff's decision.

Henderson asked for clarification with regard to the Commissioners' positions on the amount of cut and fill vs. the amount of off-haul. Most of the Commissioners are concerned with earth moving in general, including both cut and fill and off-haul.

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M/s, Brasler/Zwick, to continue to a date mutually agreeable to staff and the project applicant to refine the project, based upon the project applicant's agreement to a one-time, 90-day, extension.

AYES: Brasler, House, Krebs, Overberger, Sisich, Zwick
NOES: None
ABSTAIN: None
ABSENT: Swaim

ITEMS FROM PLANNING COMMISSION

Henderson announced that Planning Commissioner David Swaim has been appointed by the Town Council and was sworn in. Hopefully he will join the Commissioners at the next meeting.

In an effort to assist the Bolinas Avenue residents and to address concerns of theirs, Krebs asked if there are any means whereby the Seminary's forthcoming proposal can be made available before the planning packet is officially released.

Discussion ensued with regard to ways of gathering and disseminating information concerning the Seminary's proposal in a way that would be helpful to the neighbors.

In response to Commissioners' various concerns, Henderson confirmed that the Seminary's design review proposal will be brought before the Planning Commission in segments. She noted that drainage information has been submitted.

Further, Condry has been actively working with the Bolinas Avenue neighbors, as well as the Towns of Ross and San Anselmo, in looking at the project in the context of a larger picture. All are working to determine reasonable requirements of each party. Henderson concluded by stating that she will ask Boyle to call the Seminary and urge them to listen to the comments expressed by the Bolinas Avenue neighbors at the current meeting. She is hopeful that the two parties will enter discussions.

Condry confirmed that there are many facets to the drainage issue in the Bolinas Avenue area and that he is working to address the challenges by working with all parties involved. Additional funding has been acquired and he has a meeting scheduled with Ross Public Works Director Bob Hemati to discuss a course of action.

Discussion ensued with regard to the schedule of hearings for forthcoming projects.

ADJOURN TO THE MEETING OF JANUARY 7, 2013

Chair Sisich adjourned the meeting at 8:50 p.m.

Respectfully submitted,
Nancy Harris