

MINUTES OF THE SAN ANSELMO TOWN COUNCIL MEETING OF JUNE 23, 1987

Mayor Cordingley convened the regular meeting at 8:00 p.m., following a closed session beginning at 6:30 p.m. regarding pending litigation (pursuant to Government Code Section 54956.9(b)) and a personnel matter, with Councilmembers Chignell, Sharp, Walsh and Wooliever present.

OPEN TIME FOR PUBLIC EXPRESSION

Diane King, 1055 San Anselmo Avenue, requested Town regulation of pit bulls.

Barry Spitz, 155 Los Angeles Boulevard, submitted a petition signed by neighbors of the American Legion Log Cabin objecting to noise arising from the rental of this building.

Charles Lavaroni, 33 Alderney, asked whether it was possible to have a controlled burning in the County park area across the street where the grass is now 4 feet high. Mike Convis, 49 Alderney, echoed Mr. Lavaroni's concern.

APPOINTMENTS

(a) Seminary General Plan Advisory Committee (one seat). Applicants Cockburn and Julin had stated their desire to withdraw their applications for appointment.

M/S, Chignell-Sharp, to appoint John MacGregor to the Seminary General Plan Advisory Committee. Motion passed unanimously.

(b) Volunteer Program Advisory Board (one seat). The vacancy in the unexpired term, to run until September 1990, was created by the resignation of Virginia Hadsell. The Board submitted the name of Rosemary Caulfield for consideration of nomination.

M/S, Wooliever-Sharp, to accept Rosemary Caulfield's name in nomination. Motion passed unanimously.

It was the consensus of the Council to announce the vacancy, with appointment scheduled for July 14.

(c) Park & Recreation Commission (one seat). The term of Yohann Anderson will expire July, 1987. It was the consensus of the Council to announce the expiration, and schedule appointment for July 14.

EXTENSION OF ORDINANCE NO. 886, AN INTERIM ORDINANCE, AS AN URGENCY MEASURE, PROHIBITING APPLICATIONS FOR A GENERAL PLAN AMENDMENT, ZONE CHANGE, ANNEXATION, PREZONING, MAJOR SUBDIVISION, AND DEVELOPMENT AND LAND USE APPLICATIONS ON PROPERTIES WHERE THE CURRENT ZONING IS INCONSISTENT WITH THE CURRENT GENERAL PLAN

The interim ordinance adopted by the Town Council on May 12, 1987 will expire on June 25 unless it is extended by a 4/5 vote of the Council. At this time, the ordinance may be extended for either 10 months and 15 days or 22 months and 15 days. It may be repealed at any time.

Staff reported that since passage of the ordinance, no request for an exemption permit has been filed. A property owner has requested that major subdivisions in the R-1-H zone be excluded from the ordinance on the grounds that updates in the General Plan will not involve R-1-H policy decisions.

Chignell said he was willing to support extension of the ordinance at this time but expressed concern about how the ordinance can be repealed in the future. Town Attorney Roth said it was his opinion that the ordinance could be repealed by a majority vote.

Walsh said she had never supported the ordinance, did not want the R-1-H zone included and would not vote for its extension. She expressed concern about the Town's liability under the ordinance in light of the U.S. Supreme Court's recent decision that compensation must be paid to a land owner for denial of the use of the property by zoning. Roth advised that it was his opinion that the decision did not affect this ordinance, that the ordinance did not need revising and furthermore, that an application for an exemption permit would have to be filed and denied before a property owner could file suit against the Town. Walsh questioned why an ordinance was needed if there was only one request for an extension; she felt the regular planning process was suitable for processing requests for development and policy decisions. Staff responded that there was concern about making policy decisions when reviewing specific applications without looking at the whole picture. Furthermore, another intent of suspending review of non-conforming applications was to give the Planning Department time to devote to review of the General Plan; the type of applications being exempted take an inordinate amount of time to review because they involve policy decisions.

Wooliever commented that the purpose of the ordinance is to increase the well being of the community.

Peter Arrigoni, General Manager of the Marin Builders Exchange, spoke against continuance of the ordinance on the grounds it was not needed. However, if it was to be extended, he recommended it be extended for the minimum amount of time.

Planning Consultant Roberto noted that under the proposed timeline for review of the General Plan, the Council would have some idea of what kinds of policy decisions they will need to make in revising the General Plan in about 10 and 1/2 months.

Chignell stated he still had reservations about the ordinance, but will vote to extend it, noting that staff says it is necessary and he feels it is important for the community at large.

M/S, Wooliever/Sharp, to extend Ordinance 886, an interim ordinance prohibiting applications for a General Plan amendment, zone change, annexation, rezoning, major subdivision and development and land use applications on properties where the current zoning is inconsistent with the current General Plan, for 10 months and 15 days. Motion passed by the following vote:

AYES: Chignell, Sharp, Wooliever, Cordingley

NOES: Walsh

1535 SIR FRANCIS DRAKE BOULEVARD, A/P 5-153-01, PLANNING COMMISSION RECOMMENDATION FOR A GENERAL PLAN AMENDMENT TO CHANGE THE LAND USE DESIGNATION FROM MIXED RESIDENTIAL, PREDOMINANTLY SINGLE FAMILY, 6 - 12 UNITS PER ACRE, TO NEIGHBORHOOD COMMERCIAL/MIXED RESIDENTIAL, PREDOMINANTLY SINGLE FAMILY, 6 - 12 UNITS PER ACRE, AND REVIEW OF THE NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT; AND REZONING FROM C-1, (NEIGHBORHOOD BUSINESS DISTRICT) TO PPD R/C, (PRELIMINARY PLANNED DEVELOPMENT WITH A PRESUMPTIVE USE OF MIXED RESIDENTIAL, 6 - 12 UNITS PER ACRE AND NEIGHBORHOOD COMPATIBLE SINGLE BUSINESS WITH ASSOCIATED TRAFFIC IMPACT APPROXIMATELY AT LEVEL ASSOCIATED WITH THE 6 - 12 RESIDENTIAL UNITS PER ACRE DESIGNATION), AND REVIEW OF THE NEGATIVE DECLARATION.

The current C-1 zoning conflicts with the General Plan land use designation of mixed residential. However, the Planning Commission felt that some limited commercial use of the site was appropriate.

The Commission's proposal was to create a new designation on the Land Use Map of the General Plan called Neighborhood Commercial/Mixed Residential, and to rezone the property to PPD R/C to allow either

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residential, 6 - 12 units per acre, or neighborhood compatible single business with associated traffic impact at approximately the same level as the residential designation.

The site is identified in the Housing Element of the General Plan as a potential high density residential site and an affordable housing site. The Commission felt the traffic on Sir Francis Drake Boulevard was too intense to allow this type of high density project and therefore recommended the site be deleted from Figure 1 of the Housing Element.

Planning Commissioner Zaharoff reported there was concern in the neighborhood regarding high density residential use because of the traffic and noise impacts such a use could generate. The Commission felt that the most ideal designation would be mixed residential or low intensity commercial.

M/S, Sharp/Wooliever, to approve the Negative Declaration of Environmental Impact. Motion passed unanimously.

M/S, Walsh/Chignell, to adopt Resolution No. 3020 amending the Land Use and Housing Elements of the San Anselmo General Plan redesignating the property at 1535 Sir Francis Drake Boulevard (A/P 5-153-01) Combined: Neighborhood Commercial/Mixed Residential Predominantly Single Family, and deleting the property from Figure 1 of the Housing Element thereby removing the site from further consideration as a higher density affordable housing site. Motion passed unanimously.

M/S,, Sharp/Chignell, to waive further reading of Ordinance No. 888. Motion passed unanimously.

M/S, Wooliever/Chignell, to introduce Ordinance No. 888, amending Ordinance No. 485 of the Town of San Anselmo by changing the property classification of A/P No. 5-153-01, 1535 Sir Francis Drake Boulevard, from C-1 to PPD R/C. Motion passed unanimously.

40 BUTTERFIELD ROAD, A/P 5-144-26, RICHARD E. NAGLEY, APPEAL OF PLANNING COMMISSION'S PARTIAL DENIAL OF A 5 FOOT NORTH SIDEYARD VARIANCE AND AN 18 FOOT REARYARD VARIANCE TO RAISE A STORAGE AREA ROOF ATTACHED TO THE GARAGE 4 FEET HIGH WITHIN 3 FEET OF THE NORTH SIDE PROPERTY LINE AND 2 FEET OF THE REAR PROPERTY LINE WITH A 1 FOOT OVERHANG.

The Commission denied the portion of the variance that relates to adding 3 1/2 feet to the height of the roof of the storage structure located in the rear and side setbacks on the grounds that the increased bulk and height creates an undesirable, more closed-in feeling for the neighbors immediately to the north and east of the new higher storage area.

Mr. Nagley referred to statements submitted by four neighbors in support of the project. He stated that the intention of the project was to improve the appearance of the structure and his property.

Mary McHale, 34 Butterfield Road, urged the Council to uphold the Town's setback laws. She said the original structure was already non-conforming with respect to setbacks and the garage was expanded in the setbacks. She expressed concern about drainage problems and fire hazards resulting from the project's proximity to her property line. Furthermore, she said the project runs down the whole sideline of her backyard and therefore adversely affects her light, views and appearance from her house and backyard and is a detriment to her property.

Ed Wilkinson, 180 Morningside, said that from his viewpoint the project improves the appearance of Nagley's building.

Michele Michaels, 177 Morningside, said the building is not an eyesore as it was before and looks clean and neat. McHale said that Ms. Michaels' husband had done the work.

Nagley said he has a building permit dated August, 1986, and that he has gone through the winter with only one primer coat on the garage.

William Jelinek, 53 Florence, objected to setting precedents for allowing construction following issuance of a stop work order.

Chignell noted there was an honest dispute between the applicant and the staff regarding whether permits were needed, and if so, when. He said he supported the appeal.

Sharp said he could not make the finding that the project does not create a detriment to the neighbor.

Walsh said an excellent job has been done on the garage and that she supports the appeal.

Wooliever commented that it was a tough issue, she felt badly about requiring the Nagleys to remove the addition, and noted that some people liked project, but that she could not make the finding that it did not create a detriment to the neighborhood.

Cordingley said the Council should make the decision based on the addition not being there, and felt the neighbors directly adjacent the structure have to be considered at a greater weight than those neighbors further away because there is greater impact to the adjacent neighbors.

M/S, Sharp/Wooliever, to deny the appeal of Richard E. Nagley, 40 Butterfield Road, A/P 5-144-26, of the Planning Commission's partial denial of a 5 foot north sideyard variance and an ~~28~~<sup>28.12</sup> foot rear yard variance to raise a storage area roof attached to the garage 4 feet high within 3 feet of the north side property line and 2 feet of the rear property line with a 1 foot overhang, on the grounds that the findings required to grant the variance, as provided in San Anselmo Municipal Code Section 10-3.2101, cannot be made, and specifically that granting the variance would create a significant detriment to the adjacent properties. Motion passed by the following vote:

AYES: Sharp, Wooliever, Cordingley

NOES: Chignell, Walsh

Councilmember Wooliever departed at this point in the meeting.

212 BROOKSIDE DRIVE, A/P 5-132-29, ROBERT AND KAY SISLER, APPEAL OF PLANNING COMMISSION'S APPROVAL OF A 4 FOOT FRONTYARD VARIANCE AND A 3'6" SOUTH SIDYARD VARIANCE TO ENLARGE A GARAGE TO ACCOMMODATE TWO VEHICLES WITHIN 16 FEET OF THE FRONT PROPERTY LINE AND 4'6" OF THE SOUTH SIDE PROPERTY LINE WITH A 1 FOOT ROOF OVERHANG.

The Planning Commission was able to make the required findings for approval, noting that the project was a reasonable use of the property that did not create an imposition on the neighborhood.

Chris O'Connor, 119 Brookmead Court, project designer and contractor, represented the Sisler's. He said that 20 feet is the standard width for a double garage. In response to concerns previously expressed by the appellants, Lorraine and Wie-Shing Lee, the width of the garage was shortened one foot to allow 4'6" from the south side property line. The new garage has a door facing the rear of the property, instead of facing the Lee's property as it now does. The new door is a roll-up instead of opening out toward the property line. He said the garage width cannot be reduced, noting there is just enough room to get

out of the car. He added that getting cars off the street will improve the safety of children walking to school.

Joyce Tischler, an attorney and a friend of the Lee's, represented the Lee's, who were present. She said they were concerned about dévaluation of their property rights, the proximity of the garage to their property line, and that they had a different understanding of the location and appearance of the garage based on a previous conversation with the Mrs. Sisler. Furthermore, other double garages on Brookside Drive are in the rear or off to the side. She asserted that the property markers have been moved twice and therefore the Lee's are unsure about the location of the property line and want to make sure that the lines are accurate before there is any construction. Ms. Tischler said the Lee's are also concerned about what harm could arise at a future date from construction of this garage, such as if it prevents them from obtaining permission to build a garage on that side of the property in the future.

O'Connor said he marked the property lines in staff's presence based on the right of way, the back posts and the parcel map measurements, and that the stakes have not been moved. Public Works/Planning Director Kottage said that measurement method could err by a approximately one or two feet.

Walsh noted it was a very narrow street, other homes are built up to their property lines, and this property happens to be the only site in the neighborhood that has a driveway down the side of the house. She was opposed to requiring a survey and supported upholding the Commission's decision.

Chignell said he had hoped the original plan would be used, but noted that similar rights are enjoyed by other persons in the neighborhood. He said he would be comfortable acting favorably on a proposal by the Lee's to build a garage.

Sharp noted that the deliberations and decision involved in this hearing will neither prejudice nor enhance the Lee's rights to a variance. He said the issue of the property line location must be resolved; if the line is different than what is presented on the plans before the Council, the Council should be informed.

Cordingley said he did not want to act until the property line issue is resolved.

M/S, Sharp/Chignell, to continue the item to the next agenda for the purpose of resolving where the property line is. Motion passed by the following vote:

AYES: Chignell, Sharp, Cordingley

NOES: Walsh

ABSENT: Wooliever

The Council noted that an agreement between the Sislers and the Lees on the property line location was acceptable in lieu of a survey.

REQUEST FOR AUTHORIZATION TO TRANSFER BALANCE OF CAPITAL  
RECONSTRUCTION FUND AT CLOSE OF 1986-87 INTO THE GENERAL FUND.

The Capital Reconstruction Fund was created several years ago, apparently as a fund to be built up in anticipation of future needs of the Town. It has had a balance of \$72,614 for some time, but there is no known specific purpose for the money. Furthermore, it has not been used to finance any reconstruction projects. Acting Town Administrator Dickens recommended that the Council authorize transferring the balance to the General Fund and that subsequently, the Capital

Reconstruction Fund be used for financing the Town's capital reconstruction projects.

M/S, Walsh/Sharp, to authorize transferring the entire balance from Capital Reconstruction Fund #110 into the General Fund at the end of the 1986-87 fiscal year. Motion passed by the following vote:

AYES: Chignell, Sharp, Walsh, Cordingley

ABSENT: Wooliever

COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS, COMMENTS AND DIRECTIONS TO STAFF; STAFF MISCELLANEOUS ITEMS.

Downtown - Cordingley reported that the Economic Development Council has formed committees, the merchants have sent out newsletters and there is positive feedback from merchants about the downtown revitalization effort.

1987-88 Budget - Dickens announced that copies of the Proposed Budget were available.

101 Corridor Action Committee - Sharp requested this item be placed on the next agenda.

Shell Station lot - Walsh said she had received complaints there are people camping overnight on this property. Nancy Olson, 1329 San Anselmo Avenue, said the property looked like a used car lot.

310 Laurel - Walsh asked if a letter had been sent to Mr. Wernheim, 310 Laurel, re his neighbor's construction.

Signorelli - Walsh reported that the late Angelo's Signorelli's family preferred the dedication of a bench over a room at Robson-Harrington House.

Pit bulls - Cordingley provided the Councilmembers with information on pit bulls.

Campaign for a Healthier Community for Children - Cordingley announced the Campaign conducts a pot luck dinner at Robson-Harrington House every second Wednesday.

Fairfax Redevelopment - Sharp suggested this item be on the next regular agenda.

CONSENT AGENDA

- (a) Approval of minutes of June 9, 1987.
- (b) Proposed amendments to the San Anselmo Municipal Code, Title 10, revising the procedure for processing R-1-H applications. CONTINUED TO JULY 14, 1987.
- (c) Setting of public hearings for the 1987-88 budget.
- (d) Proposed amendments to the San Anselmo Municipal Code, Title 10, Chapter 13, Private Trees, to place restrictions on the pruning of elm trees and revising procedures involving heritage trees. CONTINUED TO JULY 14, 1987.
- (e) Proposed amendments to the San Anselmo Municipal Code, Title 10, revising Planning Commission appeal procedures.

M/S, Chignell/Walsh, to approve the Consent Agenda. Motion passed unanimously.

Adjournment at 10:25 p.m. to the budget session of July 2, 1987, 8:00 p.m.

Beth Calamar