

MINUTES OF THE SAN ANSELMO TOWN COUNCIL MEETING OF JANUARY 19, 1988

Mayor Cordingley convened the regular adjourned meeting at 7:35 p.m., with Councilmembers Chignell, Sharp, Walsh and Wooliever present.

2. PUBLIC HEARING TO CONSIDER EXTENSION OF AN INTERIM ORDINANCE, ORDINANCE NO. 893, AS ADOPTED AS AN URGENCY MEASURE BY THE TOWN COUNCIL ON DECEMBER 4, 1987, WHICH PROHIBITS APPLICATIONS FOR A GENERAL PLAN AMENDMENT, ZONE CHANGE, ZONING ORDINANCE ANNEXATION, PREZONING, SUBDIVISION OF LANDS IN THE R1-H

Planning Consultant Roberto reported that Ordinance No. 893 was adopted in order to give the Town time to update the General Plan and that the Town is time and ahead of schedule in its review of the Plan. However, the review is not complete and therefore the need for the ordinance still exists.

Town Attorney Roth advised that Ordinance 893 may be extended for a period up to 10 months and 15 days, after which it may be extended for a period up to one year. The Council may choose to extend the ordinance to May 12, the expiration date of the first interim ordinance.

Roberto said he expects to bring proposed General Plan revisions to the Council in May. Roth advised that the ordinance could be repealed on a majority vote.

Bruce Blakely, 874 Fourth Street, an attorney representing Peter Fraser, said that Ordinance No. 893 expired the previous day and therefore it could not be extended. He argued that the Martin Luther King holiday the previous day was not proper grounds to extend the expiration of the interim ordinance.

Roth advised that there are provisions in the Government Code that speak to the issue of holidays with respect to the expiration of this ordinance that not only allow the ordinance to be extended, but prohibit the Council from taking action on holidays.

Paul Nave, 1679 Center Road, asked the intent of the moratorium in the R1-H zone, whether there were any locations in Town where policy issues are at stake, and questioned the results of problems with applications where the General Plan did not provide adequate policy direction.

Roberto responded that two of the policy areas regarding hillside development included access and location of buildings.

Nave continued that there should be more review in the R1-H zone before the interim ordinance is extended, asked where all the community support was for the moratorium and felt there were very broad circumstantial reasons given for the ordinance. He said he has a lot of money wrapped up in their property on Oak Avenue, and felt that with the density as low as it is, there are no density problems.

Hugh Cadden, 100 Shady Lane, Ross, said he wished to make comments on behalf of himself and his wife, and would also like to adopt all the comments made by Nave and Blakely. He said they own property in the ridgeline designed for three units, they spent 7 to 8 years coming down to discuss it and work in a cooperative effort with the Town and he felt that in the development of the R1-H ordinance, both sides were left with the mutual feeling they did not get what they wanted.

Cadden objected to the inclusion of minor subdivisions in the ordinance and adoption of the ordinance without notice to him, particularly in light of his participation in the R1-H ordinance. He noted that the downtown area was excluded from the ordinance but yet it applies to the hillsides. He said he has heard there are all these policy issues and that there is concern about open space and maybe these properties will be acquired for open space. Maybe development in the downtown will stop growth in the hillsides. He said the Council is building up densities in the downtown like they are all going to go away. There are two ways something is going to be accomplished: either cooperatively or in an adversarial manner where both the Town and the

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applicants will dissipate assets. He said that what is being discussed are not broad issues that affect the whole Town, but a pathetically small number of parcels. The R1-H ordinance already addresses public health, safety and access and includes findings that have to be made in order for development to be approved, he said, and the issues that have yet to be raised are site specific. He asserted that the Town is spinning in circles over a handful of parcels when there is an existing mechanism in the R1-H ordinance to review the issues.

Peter Fraser, owner of property on Redwood Road, said that in regards to subdivisions in the R1-H zone causing policy issues to come forth, specifically the issue of narrow and circuitous roads, he questioned why the subdividers must bear the brunt of this issue when the Town continues to allow single family homes to be built without saying that access problems exist for this type of development. Regarding building envelopes, he said there was no policy issue there and the only reason it arose was that a developer wanted to change the building envelopes for a project. Concerning unresolved issues in the R1-H ordinance, he noted that it had just been revised, and that it is normal to have controversy when there is a public hearing on a subdivision application.

Botich objected to the fact that they were not notified that the Council was considering adopting an interim ordinance before that decision was made and said he hoped the Councilmembers' minds were not made up before tonight's hearing.

Sarah Nome, 77 Alder Avenue, said the master plan may need some zoning changes but that she is opposed to all the money spent revising it and is opposed to the moratorium.

David McGuinnis, 123 Sturdivant, said he wanted to buy a lot and build a home in San Anselmo but did not want to buy it only to be told he could not build on it.

Blakely said that when Nave had asked everyone opposed to the moratorium to stand, everyone in the public seats stood. He argued that the Martin Luther King holiday could not be considered a holiday for purposes of extending the expiration of Ordinance 893.

Nave said he did not think the policy issues were strong enough to warrant the ordinance.

Roberto noted that the reasons for enacting the ordinance were stated in the findings section of ordinance, and that the reasons that Fraser's exemption request was denied were stated in the resolution denying his request. Furthermore, when the interim ordinance was enacted, the Council realized there may be parcels where there are no policy issues at stake and therefore there is the exception process. He said it was not the Town's intent to stymie development applications and that the Town was ahead of schedule in the review of the General Plan. Regarding McGuinnis' comments, he noted that there is no limitation on obtaining a building permit for a single family home on an individual piece of land.

Walsh said she has been opposed to the interim ordinance all along and was opposed to this extension. She said that on December 4, the Council said that densities may be addressed and reduced, and on January 5 the Council said that densities may not be addressed. She expressed concern about the road the Council is taking, adding that no one in the public supported a moratorium ordinance or a comprehensive review of the General Plan and that the Town may be in a legal entanglement when it is not necessary.

Wooliever said that her objective has not been to inhibit the rights of property owners, but that her objective is to have consistency with the General Plan and zoning ordinance. She said that the Council has acted in good faith and is trying to proceed with the review as quickly as possible, adding that the ordinance is not aimed at anyone in particular.

Chignell stated his support of the interim ordinance and noted he was not unappreciative of property rights. He said the General Plan review

is necessary from a legal viewpoint, noted that the moratorium is limited in scope and that the General Plan review is being done on time. He felt that policy issues will come forth expeditiously and at some time soon the Council can lift the ordinance.

Sharp said he had the same concerns as he had the last time the ordinance was reviewed. He said the findings that concern him are regarding the issues of circulation, hydrology and drainage. He said he did not know whether the Council will change densities, he did not feel the Council could know the answer to that question at this time and that this issue was more appropriately addressed during the workshops on the General Plan. He supported the extension, noting that issues of circulation, hydrology and drainage are issues of public health and safety, but that he has no preconceived notion of whether lower densities will be the result of the review.

Cordingley said he would support the extension. In response to comments regarding open space acquisition, he remarked that no one would try to take someone else's land and that no one can buy someone's land without the owner's agreement. He said he was not surprised to see the property owners here, but noted that the Council has to look at the issue in terms of the what is in the best interest of the Town. He asked the property owners to ride it out with the Council; he said he did not know what will happen in terms of densities, but the bigger issue is the future of the Town and long term planning issues.

Sharp expressed concern that people were not notified and asked that how burdensome it would be to make sure that people are notified.

Regarding the question of whether new policies could be enforced once they are established by the Council as part of the General Plan review, thereby allowing the interim ordinance to be partly or entirely repealed, Roth responded that it depends on the policies, the subject matter and the types of applications, and that this question will require further review.

Lee Ahern, 43 Elm Street, San Rafael, stated his support of Nave and Botich.

M/S, Sharp/Wooliever, on an urgency basis adopt Ordinance No. 896 as described in the staff report dated January 8, 1988 and the proposed ordinance, to May 12, 1988, based on the findings in the ordinance and incorporating by reference the findings made for adoption of Ordinance No. 893 on December 4, 1987. Motion passed by the following vote:

AYES: Chignell, Sharp, Wooliever, Cordingley

NOES: Walsh

The Council changed the date of the next General Plan workshop to February 4, 1988, 7 p.m. to 10 p.m.

ADJOURNMENT

The meeting was adjourned at 8:50 p.m.

Beth Calamar