

## MINUTES OF REGULAR COUNCIL MEETING - FEBRUARY 22, 1983

Mayor Buckle convened the meeting with Councilmembers Toal, Capurro, Wooliever and Ollinger present.

## 2. OPEN TIME FOR PUBLIC DISCUSSION

John McWharter, 21 Carlson, questioned whether something could be done concerning the traffic flow on Sir Francis Drake between San Anselmo and Fairfax. Advised that since signalization is at the optimum, there is no solution outside of widening Drake Blvd.

## 3. PUBLIC HEARING ON PLANNING COMMISSION DENIAL OF APPLICATION OF SIEGFRIED PFENDT FOR REZONING TO SPD OF INDIAN HILLS PROPERTY FOR 21-26 UNITS

Mayor Buckle, consistent with his abstention from participation in this matter, left the podium.

The applicant presented the five alternative plans included in his current application (Z-220) which call for development of 21 - 26 units, contending that it is not economically feasible to develop the property with less than 22 units.

The Town Attorney advised the Council that the applicant should be given direction as to how many units might be acceptable to the Town and that it would be up to the applicant to prove that such number would not be economically feasible.

During the public hearing, members of the audience reiterated objections to the proposed density and concerns as to visual impact, traffic, etc.

After Council discussion which emphasized the continuing consensus that the applicant's proposed density is too high,

M/S Ollinger, Toal to certify the adequacy of the prior environmental review for this project. Motion passed with four ayes.

M/S Ollinger, Capurro to refer the plans back to applicant for resubmittal, without additional fees, for a maximum of 12 units, with development on the lower portion in line with the suggested plan shown in Alternative A of the Environmental Impact Report, including provision for open space dedication, and to continue this hearing to the March 22nd regular Council meeting to give the applicant the opportunity of presenting proof/disproof of economic feasibility. Motion passed with three ayes, Toal voting No on the basis that the 12 unit maximum is too high.

## 4. PUBLIC HEARING ON PLANNING COMMISSION DENIAL OF APPLICATION OF HARTMUT FISCHER FOR AMENDMENT TO SPD ZONING TO PERMIT THREE RATHER THAN TWO SINGLE-FAMILY DWELLINGS, A/P #'s 7-031-24 and 7-031-36.

Public hearing was opened with consideration first being given to the adequacy of the prior EIR for this project,

M/S Capurro, Wooliever to certify adequacy of prior environmental impact report for this project. Motion passed by unanimous vote.

The applicant presented his proposal for amendment of the previous SPD zoning for this property for two single family dwellings to permit addition of one more dwelling on the basis that it is not economically feasible to build only two homes in view of the cost of bringing in utilities and site improvements, noting that the previous SPD zoning for two units was at the specific request of the then applicant after an original application for 14-18 units on the subject property. The viability of the three-unit application was supported by Dietrich Stroeh, engineer.

Public Hearing brought forth concerns that granting of this amendment to a previous SPD approval would establish an undesirable precedent as to the economic issue, violate public trust in Planning Commission and Council decisions and encourage applications for further expansion of previously approved SPD zonings.

Majority Council <sup>consensus</sup> concluded that the democratic process is always open to appeals and amended applications and each case has to be considered on its individual merit.

M/S Wooliever, Capurro to grant the appeal and introduce an ordinance amending Ordinance No. 771 to approve the SPD zoning for A/P 7-031-24 and 36, off Summit Road, for three single-family dwellings in accordance with the plans dated January 19, 1983. Motion passed with four ayes, Toal voting No on the basis of his belief that the Council should not be concerned with the economics of development.

Staff was directed to prepare and submit to the Planning Commission during the Use Permit hearings a list of mitigations, to include, but not limited to, improvement of Summit Road, preservation of hiking trails, drainage and geological problems, a fire hydrant and dedication of open space in perpetuity.

5. APPEAL OF THOMAS G. HENDRICKS OF PLANNING COMMISSION GRANT OF VARIANCE FOR PARKING DECK, NAVE PROPERTY, 27 OAKWOOD

Appellant and neighboring residents present protested that the subject property was not a legal building site and cannot accommodate the proposed construction without severe detriment to surrounding properties.

The Town Attorney advised that based on the history of the creation of this parcel, in his opinion it is a legal building site by estoppel. However, there is a legal grey area in which a final decision could be arrived at only through a court action for declaratory relief. Also, the Council has the option to secure an outside legal opinion.

After taking the position that ruling on the legality of the building site is outside the expertise of the Council, and noting that the matter before it is the appeal from the Planning Commission's grant of a variance for a parking deck,

M/S Capurro, Wooliever to grant the appeal of Thomas G. Hendricks and deny the application of Michael Nave, 27 Oakwood Court, for a 20 foot frontyard variance to construct a three-car parking deck within zero feet of the property line on the basis that the Council does not find any justification for the granting of the variance. Motion passed with four ayes, Buckle voting no.

6. PUBLIC HEARING ON PLANNING COMMISSION RECOMMENDATION FOR ORDINANCE AMENDMENT REQUIRING USE PERMITS FOR INCIDENTAL GENERATION OF ELECTRICITY

Public hearing was opened with no public input.

Capurro suggested that the Town's established fee for a use permit application would be excessive for this type of application. Council agreed to consider establishing a lower and separate application fee for this situation at a later time.

M/S Capurro, Toal to waive reading of ordinance. Motion passed by unanimous vote.

M/S Wooliever, Toal to introduce an ordinance amending Title 10, Chapter 3 of the San Anselmo Municipal Code to require use permits for the generating of electricity as an incidental use, excepting one portable generator per lot or parcel which does not exceed 3,000 watt capacity. Motion passed by unanimous vote.

7. PUBLIC HEARING - COST ASSESSMENTS - SIDEWALK REPAIRS AT VARIOUS LOCATIONS

Public hearing was opened with no protests to the cost assessments received.

M/S Capurro, Toal to adopt Resolution No. 1936 in the matter of repairs to existing improvements of various streets, overruling protests to repairs and ordering levy of assessments to adjacent properties. Motion passed with four ayes, Buckle voting no on the basis that he does not approve of charging residents for sidewalk repairs.

8. STAFF RECOMMENDING AUTHORIZE LEASE-PURCHASE AGREEMENT FOR REPLACEMENT OF STREET SWEEPER

M/S Toal, Capurro to continue for consideration at budget hearings. Motion passed on 3 - 2 vote with Wooliever and Ollinger voting no.

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

Buckle questioned: Status of hiring of Senior Engineer/Building Inspector - advised that selection has been made to start March 16th.

Status of Adam Morgan mural - advised awaiting court decision.

Quotes in RVR from a draft memorandum to the Council not received by him - will be furnished a copy.

10. CONSENT AGENDA

From the audience, Mr. Segale suggested that the Council agendas include the total amount of the warrant registers approved via the Consent Agenda - such will be done on future agendas.

M/S Ollinger, Toal to pass consent agenda. Motion passed by unanimous vote.

## Regular Council Meeting - February 22, 1983

- a. Approved minutes of meeting of February 8, 1983.
- b. Approved Warrant Register for 2/1-15/83.
- c. Accepted final report of Tax Equity Board on FY 82-83 transactions.
- d. Accepted information report on annual creek cleanup with participation by Sleepy Hollow Homes Association.

ADJOURNED at 11:45 P.M. to regular meeting March 8, 1983.

LIBBY HANSON  
Secretary