

MINUTES OF THE TOWN COUNCIL MEETING OF NOVEMBER 10, 1987

Mayor Cordingley convened the regular meeting at 8:00 p.m., following a closed session beginning at 7:00 p.m. regarding personnel matters and interviews with applicants to the Red Hill School Site Committee, beginning at 7:30 p.m., with Councilmembers Chignell, Sharp, Walsh and Wooliever present.

2. OPEN TIME FOR PUBLIC EXPRESSION

Martin Mackey, Ecumenical Association for Housing, announced there would be a public walk through the Red Hill School site on November 14 followed by a discussion about the proposal to build senior citizen housing on the property.

William Jelinek, Chairman of the Downtown Economic Development Events Committee, requested permission to hang a banner longer than the two week limit. Town Administrator Dickens said he would look into the matter.

Mary McHale, 44 Butterfield Road, requested a response to her letter regarding her neighbors' noncompliance with the Town's denial of their variance application. Dickens said he would follow up on this matter.

Cordingley announced that volunteers were needed to plant bulbs on November 14 and 24.

3. APPOINTMENTS

(a) Board of Review

The term of Barbara Verkozen expired in December, 1986 and Attilio Segale's terms will expire in December, 1987. They are both six year terms. Staff was directed to advertise the vacancies.

(b) Red Hill School Site Committee

The School District contacted the Town about the Council appointing a representative to the District Advisory Committee. Dickens reported that the Council had already appointed Walsh and therefore another appointment was not necessary.

4. REPORT FROM POLICE CHIEF REGARDING A REQUEST FOR A STOP SIGN ON SAUNDERS AVENUE

Police Chief Del Santo reported that a traffic officer stationed at Saunders issued five tickets in five days and found the average speed to be between 24 and 27 mph. He said that stop signs are usually placed to control right of way movements at intersections, not speed.

Debbie d'Innocente, 129 Saunders, said she spoke with an official from Caltrans and an assistant professor at the UC Irvine, who she said were supportive of installing a "Children at Play" sign in addition to a stop sign.

Mark Smithers, 238 Saunders, said that commuters also speed down Saunders; it is not just school students who speed there.

Nicole Ours, 125 Saunders, noted that Saunders is the only through street between Sir Francis Drake Boulevard and Center Boulevard without a stop sign.

M/S, Sharp/Walsh, to install a stop sign on Saunders Avenue at Agatha Court, and that the Council review the decision in 60 days. Motion passed unanimously.

5. REQUEST FOR AN EXEMPTION TO ORDINANCE #868 (INTERIM ORDINANCE) FOR A/P NO. 7-071-03, 7-101-02 AND 7-154-04, REDWOOD ROAD, TO ALLOW THE FILING OF AN APPLICATION FOR A MAJOR SUBDIVISION (FOUR OR MORE LOTS), BY PETER FRASER, ET AL.

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Roberto reported that the Town is on schedule in its review of the General Plan and he expects to have a draft completed by April.

Town Attorney Roth advised that the major issue in this request for an exemption was whether there are any major General Plan or zoning changes that the Council intends to discuss that should be reviewed prior to processing of the requested development application.

Roberto noted issues that may be raised in reviewing the land use, circulation and open space elements that relate to development on this hillside property. For example:

- (1) There is no specific policy regarding development in hillside areas in the land use element.
- (2) The circulation element does not address issues of access to hillside areas. Correspondence has been received from a Redwood Road resident regarding the adequacy of Redwood Road as an access to the Fraser property. Roberto recommended that it was better to address these issues prior to processing an application rather than dealing with these issues under the pressure of a development application.
- (3) The Open Space Committee will be making a presentation soon. One of its issues is acquisition of open space: hillside and ridge areas in particular. He noted that the Council may develop a policy on obtaining open space, which may include the Fraser property.
- (4) There are issues of health, safety and welfare that could develop if the Council does not resolve certain policies in the General Plan.

Gary Ragghianti, the applicant's attorney, said that all of the issues raised in Roberto's September 15 staff report are addressed in the new revised R1-H ordinance. Ragghianti said the issues Roberto raised this evening regarding the land use and circulation elements do not relate to processing this application and that these policy issues are a matter of surmise and conjecture and do not appear in any staff report or relate to the exemption request. He said a letter from Public Works/Planning Director Kottage indicates that the zoning of this property is consistent with the General Plan. Furthermore, there were letters from Mr. and Mrs. Foley and Mr. and Mrs. Campbell in support of the application. Ragghianti urged the Councilmembers to make their determination based on the facts presented to them, the record, and the staff report, and permit Fraser an exemption under Section 1b and 1d of the interim ordinance.

Fraser said the Town has approved new homes, subdivisions and variances on Redwood Road and questioned why after approving these permits the Council has chosen to say there are policy issues affecting development on Redwood Road. He added that there were traffic reports done as part of the environmental impact report previously done on this project.

Roberto commented that his report stated it may be necessary to amend the land use element, and furthermore, the points he brought up this evening were his observations that he will be raising during the General Plan review; it was his opinion that the Council is not limited to basing its decision on items in the staff report.

Walsh said the previous Council spent four years going through an extensive review of the hillside density ordinance and she did not see anything in the General Plan that is inconsistent with the R1-H zoning. Fraser is only asking to file an application, and she did not have a problem with that. She did not like being told what policy considerations could be coming along or what the Open Space Committee may be doing that would affect the General Plan, and felt the decision should be based on what is now in front of them.

Wooliever said she did not think the Council could look at this issue without looking at the backdrop, and that is why the details are being presented. She said she thinks the issues raised are of concern and that it is a foundation that they have to consider.

Chignell stated that he would have liked to have had the issues raised this evening included in the staff report, but that Roberto's comments had given him information to consider.

Sharp said that staff has raised items that he anticipates will be part of the orderly review of the General Plan.

Cordingley asked how specific the findings must be if the request is denied and whether the issues Roberto has raised are too speculative to include as findings.

Roth responded that the Council will have to make findings whether the request is approved or denied. He noted that the purpose clause of the ordinance uses the wording "can consider" and suggested that a reasonable basis for handling the decision would be to ask if there is a reasonable possibility that the particular proposal would be considered. In response to a question from Cordingley regarding recent court decisions on the "taking" of property, Roth advised that the only question is whether a decision to deny the exemption permit is arbitrary or capricious. If there are findings made in the decision, then it is clearly a lawful action.

Walsh supported granting the exemption request based on what was before the Council that night; the interim ordinance was enacted due to inconsistencies, but there is no evidence there is inconsistency in this case.

Wooliever said she was not interested in creating an undue hardship for Fraser, but she felt the Council had an obligation to policy that takes precedence. She said there are significant concerns that the Council must review in terms of requests for applications and there issues in the General Plan with respect to the land use, open space and circulation elements that are crucial. The Council's endeavor to establish policy, and its orderly process, is paramount.

Chignell said he sympathized with Fraser and his legal rights but that he agreed with Wooliever that review of the General Plan and zoning ordinance must be done in an orderly fashion. There are major areas of the General Plan that are subject to review and the Council must treat that responsibility very highly. He said he wants the update to be on schedule and noted that something may come along in those elements they were discussing this evening.

Sharp said that independent of Roberto's topics of review, there was no doubt in his mind that the Council will be reviewing the traffic and circulation elements, specifically on Redwood Road. He said he has had specific concerns on the traffic and circulation in this area for a long time. He felt that the Council will also be reviewing health and safety issues in that area, with regard to flooding, earthslides, etc. Therefore, the processing of this application cannot help but jeopardize the orderly review of the General Plan and Zoning Ordinance.

Cordingley said he shared those feeling and did not see a way to review something as large and all encompassing as the General Plan without an umbrella like the interim ordinance. He said the Town has bent over backwards to allow Fraser to participate in this process and allow this application for an exemption permit. But it is not a simple application and there are many issues involved in this particular piece of property that will affect a number of issues, many of which Roberto has mentioned. He said the staff report was adequate to direct the Council's attention to certain issue, it has brought out a discussion on examples of issues that will come out in review of the General Plan. Regarding the question of whether it is reasonably possible that certain issues will be brought up during review of the General Plan, he felt the answer was "yes", and that the decision is being made without malice or forethought.

Roth recommended that staff be asked to prepare a resolution setting forth those findings that would be adopted at the next meeting.

M/S, Sharp/Chignell, to direct the preparation of a resolution denying the request for an exemption to Ordinance No. 868 for A/P Nos.

7-071-03, 7-101-02 and 7-154-04, Redwood Road, by Peter Fraser, et al, on the grounds that the granting of the requested exemption would jeopardize the Town's orderly review of the revised R1-H ordinance, specifically: traffic and circulation policies as contemplated by the upcoming General Plan review would be affected by the early processing of this application, and further that it may be necessary during the General Plan review to amend and add policies to the Land Use Element and General Plan to adequately protect the ridge and hillside areas in town, with specific reference to potential flood and landslide damage occurring on the Redwood Road area, specifically in the area of the parcels described, and on the further grounds of the comments made by Councilmembers this evening, and on the further grounds that the General Plan review is underway and will address inadequacies in the current General Plan for protection of the public welfare. Motion passed by the following vote:

AYES: Chignell, Sharp, Wooliever, Cordingley

NOES: Walsh

6. APPEAL OF PLANNING COMMISSION APPROVAL OF AR-6, QUARRY MOUNTAIN, INC., END OF TOMAHAWK DRIVE, A/P, 177-250-40, 177-250-40, 177-250-41 AND 177-220-50, ARCHITECTURAL REVIEW OF SEVEN SINGLE FAMILY DWELLINGS: UNITS NOS. 3, 4, 5, 6, 7, 8, 9, 10 AND 12, AND DRAFT RESOLUTION OF APPROVAL.

Since the last meeting, a workshop took place between the Council and the Planning Commission to discuss the issue of "low visual profile" with respect to development, and an appeal was filed on the Commission's approval of the architectural review for lots 10 and 12. Roberto reported that the new appeal addressed the same points raised in the appeals on the other design approvals.

Larry Stack, 10 Alice Way, objected to being limited to five minutes in his statement on the appeal, and requested that his appeal fee therefore be refunded. Roth advised that it was the Council's prerogative to set rules for running the meeting.

Stack said the large homes in Quarry Mountain will create a "lower" and "upper" Tomahawk Drive, he alleged that the supporters of the size of the Quarry Mountain homes live in large houses, and said there was inadequate representation from the Commission at the workshop session.

Jonathan Braun, 479 Scenic Drive, said the issue centers around the definition of "low profile." He said that lots 7 and 8 on the west side of the quarry create the most problem; the house on lot 7 sprawls over the edge of the hillside and violates his definition of low profile. He supported the proposal to move the building out of the building envelope to reduce its visual profile. He said there are measures that could be taken to get the building on lot 8 off the hillside and onto the graded path, and the alteration of the roofline in that area could bring down the size and impact of the wall.

Barrett Denton, 53 Miwok, supported requiring a visualization study because it would allow decisions to be made based on more objective considerations. He said it found it hard to understand how structures of 3200 square feet are low profile; although he appreciated that square footage alone is not the sole determinant, it is certainly a factor.

David Israel, 47 Indian Rock Road, said there would always be a difference in the profile of the ridge since there will be construction there. He said that the size of homes was an issue of time in that homes built in the 1950's and 1960's were smaller than homes being built now. He felt there was not much to gain by reducing the size of the homes by 800 square feet.

Roth advised that if the size of homes in a project is reduced to such an extent that it makes the project unviable, the applicants could argue that issue in court.

Planning Commission Chairman Hayes stated that he has served several months with the Commissioners present at the workshop and felt they were very familiar with the project.

The owner of 104 The Alameda said he supported Israel's comments, supported the aesthetics of the project, and felt the developers are responsive and responsible.

Stack said the neighbors have made several requests for a visualization study and alleged that the Council approved the Tentative Map based on a threat of litigation.

Chignell commented that he did not have an opportunity to vote on the Tentative Map and if he had, he would not have voted for it. He did not support the project but with regards to the appeal, he noted that the design review process has been exhausted by the Planning Commission. Regarding the request for a visualization study, he noted that anything that is built on the ridge will have a high visual profile because of its location.

Sharp indicated his agreement with Chignell's comments. He noted that something will be built on this property and whatever is built will have a high profile because it is a high visual profile area. He said what has to be looked at is whether the applicants have complied with the conditions and done what they've needed to do to make a low visual profile. He said no one has come forward to say what could be done to make them lower, and the Council is stuck with the finding that there is a low visual profile.

Cordingley said it was an important decision for him, adding that he is a neighbor of the Quarry Mountain property. He said reviewing this project has never been easy for him, it was not easy to vote to approve the project, and it was always his intention to vote against the project since he did not want anything built there. However, he found when elected to the Council that as long as developers come in with a project that meets town code, to some extent the Council's hands are tied. He said that when making a decision, he does not consider the threat of litigation, but he has to balance the rights of the developer with the interests of the community. He noted that the project had been reduced from its original proposal of 42 units.

Cordingley said that he had a lot of questions at the last meeting and found the workshop to be very productive. He has concluded that while he is not excited at the prospect, he feels the homes as designed are low visual profile, and could not be lower, unless they dig into the ground, which creates other problems and they have already done that to some extent. He said that low visual profile is not a matter of square footage but was interested in hearing the explanation on this matter given in the workshop. Cordingley said he thought requiring a visualization study should be introduced early in the process and overall he does not think that the study would give the Council any more information of any significance.

M/S, Wooliever/Chignell, to deny the appeal of the Planning Commission approval of the architectural review and the draft resolution of approval, and incorporate the findings of the staff report dated October 22, 1987. Motion passed by the following vote:

AYES: Chignell, Sharp, Wooliever, Cordingley

NOES: Walsh

7. PLANNING COMMISSION REFERRAL OF THE BUILDING DESIGN FOR SINGLE FAMILY DWELLING UNIT NO. 7: QUARRY MOUNTAIN, INC., END OF TOMAHAWK DRIVE, A/P NOS. 177-250-40, 177-250-41, AND 177-220-50,

Roberto reported that as designed, lot 7 is furthest out on the cul-de-sac and is the last lot to take access at that end, looking westward. There is a lot of area between the building envelope and the street. It is the Planning Commission recommendation that if the home could be moved toward the street, its profile could be reduced by 6 to 7 feet. The developer is willing to submit a design to be authorized

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to be out of the envelope. He noted that this was a good faith effort on the part of the developer.

Douglass Elliott, project developer, said he believed the Commission was correct in requesting this modification. Since the building envelope has a 20 foot front setback, there is room to move the house closer to the street without impacting anyone, except someone driving by. He said there is clearly a benefit, and he thought it would be a better building a better use of the site.

Stack said that building outside the envelope will increase the size of the house. The project architect said the square footage on the revised design would be about the same, adding that a three-car garage was approved on the first application.

It was the consensus of the Council to entertain the request of the Commission to consider allowing construction to take place outside the building envelope at the next regular meeting.

8. ADOPTION OF ORDINANCE NO. 890 AMENDING TOWN CODE, TITLE 10, TO ESTABLISH A NEW APPLICATION PROCESSING PROCEDURE AND STANDARDS FOR DEVELOPMENTS PROPOSED WITHIN THE R1-H DISTRICT, AND REVIEW OF PROPOSED NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT.

Roberto explained that currently the R1-H ordinance follows requirements of the State Subdivision Map Act. However, this procedure does not require pertinent information such as a grading plan. The proposed ordinance takes the R1-H process back to zoning laws, which allow more flexibility, and which means that a preliminary development plan, a conceptual grading plan, followed by a precise development plan, preliminary grading plan, and a Tentative Map and final grading plan filed simultaneously will be required.

The zoning is also more restrictive in terms of allowed uses, includes and bulk and space requirements of the R1 zoning and places a height limit of 18 feet on the ridge and 30 feet on the slope in the ridgeline areas, defined as areas within 150 of the ridge. The ordinance also includes a timeline for expiration of approvals and procedures for modifications to approved plans.

Walsh raised the issue of whether the height limit is measured from natural or finished grade. Roberto responded that this would be left to the discretion of the Planning Commission. The Commission had discussed this issue but found it difficult to put wording in the ordinance that allows for all situations. The intent of the ordinance is not to allow development on the ridge or in ridge areas.

Steve Best, 46 Elkhorn Way, supported the ordinance but wanted to see more teeth regarding the issue of traffic. Roberto noted that project approval requires a finding to be made that the roadways are suitable to carry the projected traffic.

Jonathan Braun, 479 Scenic, a member of the committee drafting the first R1-H ordinance, supported the changes, noting they will make for a more thorough evaluation. However, he favored reducing the height limit on slopes from 30 feet to 24 feet.

Russell Cohn, Redwood Road, said it was important to get control of construction activity from the beginning due to the impact on the adequacy and condition of the road. He expressed concern about a home occupation across the street and questioned whether this use would be allowed under the revised zoning.

Letha Marchetti, 29 Sais, supported Braun's suggestion for a 24 foot height limit.

Chignell asked whether the Town was adequately protected under this ordinance with respect to the adequacy of the road. Roberto did not recommend including testing for adequacy of the road in the ordinance, noting it could be handled in other ways, and added that the ordinance had been referred to the fire service.

Regarding a 24 foot height limit, Roberto said the Commission considered this limit but thought there were some circumstances where 30 feet would be more appropriate and would generate a better design.

M/S, Sharp/Chignell, to approve the negative declaration of environmental impact. Motion passed unanimously.

M/S, Wooliever/Walsh, to waive further reading and adopt Ordinance No. 890. Motion passed unanimously.

DISCUSSION REGARDING REMAINDER OF AGENDA:

M/S, Sharp/Chignell, to continue consideration of the referendum against Ordinance No. 3024 due to the lateness of the hour and the length and weight of the issue. Motion passed unanimously.

9. RESOLUTION ENDORSING THE CALIFORNIA WILDLIFE, COASTAL AND PARK LAND CONSERVATION ACT.

M/S, Chignell/Sharp, to approve Resolution No. 3037 endorsing the California Wildlife, Coast and Park Land Conservation Act. Motion passed by the following vote:

AYES: Chignell, Sharp, Wooliever, Cordingley

NOES: Walsh

10. INTRODUCTION OF ORDINANCE AUTHORIZING AMENDMENT TO AGREEMENT WITH THE CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM TO PROVIDE 2% AT 50 RETIREMENT PLAN FOR POLICE OFFICERS.

At the last meeting the Council adopted the Resolution of Intention to amend the agreement with PERS. Dickens reported that the next step is to introduce and adopt an ordinance authorizing the execution of the amendment. If it is the intent of the Council to have the amendment go into affect January 1, the ordinance would have to be introduced this evening. By introducing the ordinance, however, the Council is not obligated to put the 2% at 50 program into effect January 1. Dickens noted that this was a major decision for the Town: it was a cost of \$51,323 over a 12 month period, it was a matter of importance to police officers, who feel it has been a long standing commitment to them, and if it is not offered in San Anselmo, it would have an impact on the turnover and recruitment in that not having this benefit would keep San Anselmo at a competitive disadvantage.

Town Attorney Roth recommended that the Council not make a commitment to this program until he has obtained further information with respect to the lawsuit filed by Herman Kramer regarding pension payments, which he expects to receive in about 60 days.

Walsh and Cordingley expressed support for the plan but were concerned as to whether the Town could afford it at this time.

Ed Wight, police inspector and residents, said the police officers felt the Council had already made a commitment for 2% at 50, adding that the San Anselmo police officers are one of the lowest paid in the County and their retirement plan is the worst.

Letha Marchetti, 29 Sais, said the program is very costly and questioned how long police officers stay in San Anselmo and therefore how much of a difference having this program makes.

Don Nelson, a police sergeant, said the program had been promised to the police officers for five years, ever since San Anselmo firefighters obtained the plan when they merged departments with Fairfax.

Nancy Olsen, 1329 San Anselmo Avenue, said that if the Fire Department has the program, the Police Department should have it too.

M/S, Sharp/Wooliever, to waive reading of Ordinance No. 891 authorizing an amendment to the agreement with the California Public Employees

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Retirement System to provide a 2% at 50 retirement plan for San Anselmo police officers.

Wooliever commented that the police officers have held out a long time for this plan, there are police officers who have stayed because of this promise and that she felt a sense of responsibility to implement the plan.

Cordingley explained he was concerned about the cost of the program and the Town's fiscal situation and therefore would vote against introduction of the ordinance.

The motion passed by the following vote:

AYES: Sharp, Wooliever, Chignell

NOES: Walsh, Cordingley

11. CONSENT AGENDA

- (a) Approval of Warrant Nos. 6423 through 6537 in the amount of \$375,470.98.
- (b) Approval of minutes of October 27, 1987.
- (c) Acknowledgement of donation of labor by Mr. Trees for elm tree planting.
- (d) Appeal of Planning Commission denial of V-2199 and A-144 for Michael Conroy, 27 Oakwood Court, A/P 5-062-80, a third story variance to construct a floor in the lower area to provide additional living area, and architectural review of exterior changes. CONTINUED TO NOVEMBER 24, 1987.
- (e) Receive status report on repairs to fire station beams.
- (f) Consideration of report from the Library Planning Committee and establishment of a funding study committee. CONTINUED TO NOVEMBER 24, 1987.
- (g) Introduction of ordinance amending Town Code, Title 10, revising Planning Commission procedures. CONTINUED TO NOVEMBER 24, 1987.

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

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

Library Budget - Dickens asked the Council to consider adding an item to the agenda regarding a budget appropriation, on the grounds that the need to take action arose following the posting of the agenda.

M/S, Chignell/Sharp, to entertain this item. Motion passed unanimously.

Dickens explained that an appropriation of \$5,883 needed to be made from the contingency fund to the library budget in order for the Town to meet the requirements of a state library grant. After the conclusion of labor negotiations, instead of transferring money from contingencies to salaries, money will be transferred from the book budget to the library budget item for salaries.

M/S, Wooliever/Walsh, to transfer \$5,333 to the Library Department book budget from contingencies. Motion passed unanimously.

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

Fire Service Board - Chignell requested and received permission from the Council to ask the Town Attorney to draw up an agreement regarding the appointment of Councilmembers to the Board.

Tamalpais Theater - Cordingley commented that there is activity taking place on the second floor of the theater without the proper permits. It was the general feeling of the Councilmembers that this was an item of concern.

14. ADJOURNMENT

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On motion duly made and seconded, the meeting was adjourned at 11:38 p.m. to a workshop session on the General Plan, November 18, 1987, 7 p.m. to 9 p.m.

Beth Calamar