

MINUTES OF THE TOWN COUNCIL MEETING OF MARCH 8, 1988

Mayor Cordingley convened the regular meeting at 8:00 p.m., following a closed session regarding personnel matters beginning at 7:15 p.m. and interviews with applicants to the Robson-Harrington House Association Board of Directors beginning at 7:45 p.m.

Town Attorney Roth asked that an item regarding the Quarry Mountain development be added to the agenda on the grounds that the need to take action arose following posting of the agenda.

M/S, Chignell/Wooliever, to add this item to the agenda. Motion passed unanimously.

2. OPEN TIME FOR PUBLIC EXPRESSION

Bill Bandy, 202 Saunders Avenue, said he polled 60 downtown merchants regarding the Antique Dealers Association request to close San Anselmo Avenue for the Antique Faire on Sunday, May 22 and that he obtained 50 signatures in favor of the closure.

Town Administrator Dickens reported that it was his understanding that the Antique Dealers Association and the Downtown Business Association were working on a compromise solution.

3. APPOINTMENTS TO THE ROBSON-HARRINGTON HOUSE ASSOCIATION BOARD OF DIRECTORS.

The terms of Richard Tracy and Tim Geraci have expired. Mr. Tracy is seeking reappointment. Applications have been received from Larry Lococo, John Deamer, William Jelinek and Gary Peasley.

M/S, Sharp/Wooliever, to close nominations. Motion passed unanimously.

4. EXCEPTION REQUEST TO INTERIM ORDINANCE NO. 893 BY R. STEWART KAHN, OAK SPRINGS DRIVE AND THERESA DRIVE, A/P 5-011-60, TO PERMIT THE PROCESSING OF PLANNING APPLICATIONS FOR DEVELOPMENT IN AN R1-H DISTRICT (HILLSIDE DENSITY DISTRICT).

The applicant is requesting an exception on the grounds that the granting of the permit would not jeopardize the orderly review of the general plan and zoning ordinance and would not be detrimental to the health, safety and general welfare of persons and property in the area. The basis of the applicant's contention is that with development of their property a turnaround and cul-de-sac will be provided - which will alleviate existing circulation hazards on Oak Springs Drive and Angela Drive, the developable portions of their property are outside the ridge area and would have minimal visual impact, the development would not have an adverse impact on the existing neighborhood and would not require the extension of utilities.

Planning Consultant Roberto advised that the granting of an exemption permit to allow the processing of a subdivision application for this property would not jeopardize the orderly review of the Town's General Plan, nor would the processing of this application involve policy questions relative to development or access roads in ridges and hillside areas. He noted that the Town's revised R1-H zoning ordinance gives the Town adequate guidance, the proposal is essentially infill development of an existing subdivision, Oak Springs Drive is an improved paved roadway built to typical subdivision standards and the project site is already served by existing water and sewer lines. He noted that the site is identified as a public acquisition area in the Open Space Element of the General Plan; however, development of the property would not necessarily have to involve extensions of roads and housing into an area that is currently vacant open space.

Paul Gutfreund, 216 Oak Springs Drive, said the residents of Oak Springs Summit held a meeting and agreed that there was no circulation problem on Oak Springs Drive, a turnaround on Theresa could increase circulation hazards, the development would have a visual impact, it must require some extension of utilities, and it would impact the

review of the General Plan and does involve policy issues. He said they did not think it is infill development, they did not think that it won't involve more roads or raise planning issues appropriate in existing substandard circuitous roadways, or that it doesn't involve extension of major water or sewer lines.

Curtis Kim, 222 Oak Springs Drive, said his driveway is off of Oak Springs Drive and there is no problem with people wandering onto Oak Springs as the applicant stated. He said that any exceptions to a moratorium ordinance should be based on mitigating circumstances and was concerned as to why the exception was being requested now rather than waiting a few months for the interim ordinance to expire. He said any development will have a visual impact.

Nancy Ross, 238 Oak Springs Drive, said there was no circulation problem in the neighborhood and the water pressure there is low.

Gay Kagy said that as a former and founding member of the Open Space Committee she felt compelled to remind the Council that this property was considered prime open space. She felt this exception might open up a raft of development prior to the expiration of the ordinance.

Stuart Kahn, applicant, said they were not stating there is a traffic problem there, but that they were going to improve the road by building a turnaround for their benefit and for the benefit of the neighborhood. He said that none of the homes would be on the ridgeline, and they are talking about building 400 feet down from the ridge. The homes will not impact the views of the neighbors above. They will put in pumps to help the water pressure. They did not see this as a project that will violate the ordinance.

Terry Sturgis, project civil engineer, said the site underwent a great deal of planning review before development was approved for it in 1982 (which has since expired). He said the development will have only minimal impact.

John Colteaux, attorney for Robert L. Thurmond, submitted a letter stating that Mr. Thurmond was one of the owners of A/P 5-291-01 and a portion of A/P 5-011-60, which is included in the application, and that he does not consent to the application by Mr. Kahn.

Kahn responded that his purchase of the property was currently in escrow and that they had obtained a lot line adjustment to legally separate Thurmond's property from theirs.

Planning/Public Works Director Kottage suggested the application be continued to clarify the ownership issue and to review other issues raised during the public hearing.

M/S, Sharp/Chignell, to continue the exception request to interim Ordinance No. 893 by R. Stewart Kahn, Oak Springs Drive and Theresa Drive, A/P 5-011-60, to permit the processing of planning applications for development in an R1-H District (Hillside Density District), in order to obtain staff opinion on the ownership of the property. Motion passed unanimously.

5. REQUEST FOR CHANGE OF WORK HOURS FOR QUARRY MOUNTAIN DEVELOPMENT

Calvin Gunn, attorney for the project developers, noted that condition #7 under Section B entitled "Slope repair, grading and drainage" states that "all grading and construction activities shall be limited to weekdays from 8 a.m. to 5 p.m." Gunn felt the time was only limited with respect to the slope repair, grading and drainage and that work on the homes themselves was a separate issue. He thought that the intent of the condition was to limit the obnoxious noise of heavy equipment that is associated with the first phase of work, and that much of the work associated with home construction is inside work that does not impact the neighbors.

Bruce Burman, project developer, said there are homes below in the neighborhood where construction begins at 7 a.m., since the Town Code

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allows construction to begin on other projects at that time. The Quarry Mountain property is above and further away from homes, and he felt the restriction was singling them out to prevent them from building the homes. His recollection was that the intent was to have the time limit during grading only. He asked that if they cannot start at 7 a.m., that they be permitted to work until 6 p.m. and on Saturdays.

Larry Stack, 10 Alice Way, said that a request for change in work hours was heard on May 26, 1987 and the Council did not want to change the hours at that time. After being contacted by the Town that a request for change in hours would be heard this evening, Stack contacted neighbors today who said they thought this issue had been previously resolved.

It was the consensus of the Council that its intent in the conditions on work hours in Resolution No. 2060 was that the limit cover all phases of the construction and that this condition should remain as is. Cordingley expressed interest in revising the permitted hours of work in the Town Code to either start a half hour or one hour later.

- 6. APPEAL OF THE PLANNING COMMISSION'S DENIAL OF A PORTION OF V-2212 AND NU-60 FOR CYRUS ANSARI, 94 BERKELEY AVENUE, A/P 5-165-35, A 14 FOOT FRONTYARD VARIANCE TO CONSTRUCT OPEN STAIRS TO A PROPOSED SECOND UNIT WITHIN 0 FEET OF THE FRONT PROPERTY LINE; A 9 FOOT REARYARD VARIANCE TO CONSTRUCT A FIRST FLOOR OPEN DECK WITHIN 5 FEET OF THE REAR PROPERTY LINE; A 5 FOOT REARYARD VARIANCE AND AN 11.5 FOOT FRONTYARD VARIANCE TO CONSTRUCT A TWO-STORY SECOND LIVING UNIT WITHIN 15 FEET OF THE REAR PROPERTY LINE AND 8.5 FEET OF THE FRONT PROPERTY LINE; A 12.5 FOOT REARYARD VARIANCE TO PLEXIGLASS PANELS ON A NEW DECK RAILING WITHIN 1.5 FEET OF THE REAR PROPERTY LINE (RAILING APPROVED SUBJECT TO NO PLEXIGLASS) AND A USE PERMIT FOR A NEW SECOND LIVING UNIT.

The Planning Commission approved some of the variance applications relating to the main house, and denied the other applications, which relate to the addition of a second unit, on the basis of overdevelopment of the lot and noise generation in a single family neighborhood.

Ansari stated that the proposed lower deck gives him access to his property, provides needed privacy for the bedrooms, and helps prevent soil erosion. He said the plexiglass panels create a pleasant view for all the neighbors and do not impact their privacy, it was not appropriate for the Planning Department to submit his design to his neighbors, and that he was willing to share the cost of planting landscaping between his and his neighbors' property.

Regarding the second unit, he said there are 18 such units in the Morningside neighborhood, he has met every law in having this unit and that he wanted to convert the empty space under his carport into a unit. He said there are special circumstances of his property such as the unusual shape of his land, he should not be denied his rights, and none of the other second units in his neighborhood are better than his. He said 8 foot sideyard setbacks are non-existent in his neighborhood, including the properties with second units.

Russell Kawahata, 84 Berkeley, submitted a petition from 30 neighbors opposing the application. He said they lived in a sensitive canyon with a very sensitive sound environment. There already is a structure that looms over his property, which is very exposed to Mr. Ansari's. He said the purpose of a deck is to screen the view up as well as down and it was incongruous to want privacy and a clear view through plexiglass. He said the neighbors realized the desire for deck living as there are ample single decks in the neighborhood, but a second deck would bring out more people which would infringe on neighbors' privacy.

Regarding the second unit, Kawahata said the owner has never been a resident of the property, the proposed unit does not meet the setbacks, there is an erosion and foundation problems on Ansari's property, there are serious seepage problems and he was concerned about a slide

occurring from Ansari's property onto his. He said building under the deck, adding 1 to 2 more cars, and looking up at another structure would be a significant detriment to his property rights.

Marie Hoch, 51 Sunview, submitted a copy of a parcel map noting which property owners were opposed to the application. She asked how the people of San Anselmo would respect Town ordinances if the Town grants all the variances requested. She felt the second unit would be detrimental to the neighborhood, adding that the additional vehicles will be noisy. She argued that the granting of the application was not necessary for substantial property rights.

Jean Whalen, 90 Berkeley, said she thought the lot was too small for the building he wants to do, and that it is a narrow street with a sharp turn.

Diana Stone, 98 Berkeley, whose property is next to Ansari's, said she felt her neighbors had stated the case well. She said the inaccessibility of the road is very critical, which would be exacerbated by an additional unit.

Sarah Nome, 77 Alder Avenue, said she was a member of the committee who worked on the second unit ordinance, which wanted owner occupancy.

Doug Myer, 83 Berkeley, said he agreed with his neighbors' comments, adding that a plexiglass deck would eliminate his privacy.

Edmund Jagels, 79 Berkeley, noted the property was very steep

Gregory Smith, 97 Berkeley, concurred with the objections stated by his neighbors.

Larry Stack, 10 Alice Way, said he lives above 94 Berkeley, has observed the chaos, noise and smell on the property, and felt adding a unit would exacerbate the condition.

Alan Almquist, 6 Alice Way, concurred with comments made by Nome and Stack.

Public Works/Planning Director Kottage said the property had unsafe conditions that needed to be brought up to code.

Walsh asked Ansari whether he had ever lived on the property. Ansari responded that he had not slept there, but that he works there.

It was the general feeling of the Councilmembers that while they were sympathetic with his attempts to improve the condition of his property, the number of variances requested were excessive and would be burdensome to the neighbors.

M/S, Sharp/Chignell, to deny the appeal of the Planning Commission denial of a portion of V-2212 and NU-60 for Cyrus Ansari, 94 Berkeley Avenue, A/P 5-165-35, a 14 foot frontyard variance to construct open stairs to a proposed second unit within 0 feet of the front property line; a 9 foot rear yard variance to construct a first floor open deck within 5 feet of the rear property line; a 5 foot rear yard variance and an 11.5 foot frontyard variance to construct a two-story second living unit within 15 feet of the rear property line and 8.5 feet of the front property line; a 12.5 foot rear yard variance to plexiglass panels on a new deck railing within 1.5 feet of the rear property line and a use permit for a new second living unit, on the grounds that the granting of the variance would materially and adversely affect the health and safety of persons residing in the neighborhood, would cause excessive noise, traffic parking and overloading of public facilities, with specific reference to the configuration of the property, the proximity to adjacent properties and the looming nature of the variances requested would create additional detriment to the neighborhood, and the second unit would be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing in the neighborhood and would be detrimental and injurious to the property and improvements in the neighborhood. Motion passed unanimously.

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7. REPORT ON PROPOSALS BY THE PEACE CENTER OF MARIN REGARDING THE CONDITION AND RENTAL OF THE TOWN-OWNED BUILDING AT 1024 SIR FRANCIS DRAKE BOULEVARD.

Town Administrator Dickens reported on staff's responses to the proposals by the Peace Center. Staff requested more time to review the major proposal regarding the repairs. Concerning the other items, staff recommended a hold harmless agreement be incorporated into a temporary lease to run through 1988, that the Center be allowed to rebuild the back porch and both sets of steps, without any alteration in the space being used and make the building wheelchair accessible at its own expense, and that Town permit fees be waived for all work on the building. It was noted that permits would still be required. Approval in concept was recommended of the proposal for the Center to direct the building repairs and remodeling under supervision of a qualified contractor(s) who will donate their time.

Town Attorney Roth reported that the hold harmless agreement was intended to protect the Town against claims by third parties.

Herman Kramer, 1 Allemand Place, asked who would pay for a claim if the Peace Center cannot pay. Roth responded that the Town would have to, but that the Center was required to carry a \$1 million liability insurance policy.

Kottage stated that the Center's proposal spoke to correcting a number of hazards, but there are also areas in the building that a substandard that need to be addressed before they become a problem.

Val Schaaf, the Center's engineer, said there needs to be a distinction between hazards and codes that are desirable in a new structure and felt the Center did not need to be brought up to current building standards.

A two month target date was established for completion of staff review of the proposed repairs.

M/S, Wooliever/Chignell, to accept the Peace Center's proposal to the Town consisting of items A through #, including provisions with respect to recommendations as stated in the staff memorandum dated March 4, 1988, with items F and G still under negotiation. Motion passed unanimously.

8. APPOINTMENTS TO THE SAN ANSELMO YOUTH COMMITTEE AND AUTHORIZATION TO EXECUTE AGREEMENT WITH THE COUNTY OF MARIN FOR FUNDS FOR A TEEN CAFE.

The County of Marin has granted \$2,500 to be used by the Youth Committee to fund various expenses of a Teen Cafe. As a condition of receiving these funds, the Committee must be Town-appointed. The Town previously passed a resolution creating the Youth Committee. Cordingley submitted a membership list of the committee.

Sarah Nome, 77 Alder Avenue, expressed concern about committees in Town that were supposed to have been formed.

Herman Kramer, 1 Allemand Lane, asked whether the Town's insurance would cover the Teen Center. Lew Tremaine responded that it did not and that it was the intent of the committee to make the Teen Cafe its own non-profit organization.

Dickens confirmed that the Town's insurance would not be covering a facility and that the Town's insurance consultant reviewed the agreement and felt the Town's existing coverage was sufficient to meet the conditions in the agreement with the County.

M/S, Chignell/Sharp, for approval of the committee roster as distributed tonight. Motion passed unanimously.

M/S, Chignell/Sharp, to authorize execution of the agreement between the County of Marin and the San Anselmo Youth Center. Motion passed unanimously.

9. REQUEST FOR AUTHORIZATION TO USE BUDGETED VEHICLE MAINTENANCE FUNDS TO PURCHASE A USED PICK-UP AND REQUEST FOR AN ALLOCATION OF FUNDS FROM THE VEHICLE REPLACEMENT FUND FOR A SECOND USED PICK-UP TRUCK.

M/S, Wooliever/Chignell, to authorize spending budgeted vehicle maintenance funds for the purchase of a used pick-up truck from the County of Marin. Motion passed unanimously.

M/S, Wooliever/Walsh, to authorize spending \$5,000 from the Vehicle Replacement Fund to purchase a second pick-up truck from the County of Marin. Motion passed unanimously.

10. CONSENT AGENDA

- (a) Approval of warrants: Nos. 5864-5969, 6015-6050, 6676-6697 in the amount of \$573,234.96.
- (b) Approval of minutes: February 17 and 23, 1988.
- (c) Acceptance of Halprin Park Slope Protection Project and change work order as completed, and authorization to file Notice of Completion.
- (d) Proclamation declaring March as Mental Retardation Month as requested by the Marin Association for Retarded Citizens.
- (e) Introduction of ordinance amending Titles 5 and 9 fo the Town Code by repealing various sections relating to creeks, streams and structures within or abutting creeks, and amending Title 9, Chapter 17, Protection of Flood Hazard Areas, and Chapter 18, Water Courses. CONTINUED TO MARCH 22, 1988.

Walsh asked that the minutes of February 23 be amended to include a statement explaining that her "no" vote on the off-shore oil drilling issue was on the grounds that she did not feel the Town should take a stand on this issue.

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

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

101 Corridor - Sharp asked that a report on the 101 Corridor Action Committee be placed on the next agenda.

Marin Special Olympics - Sharp asked that this issue be placed on a future agenda.

12. ADJOURNMENT

the meeting was adjourned at 11:15 p.m.

Beth Calamar