

**TOWN OF SAN ANSELMO
STAFF REPORT
October 6, 2008**

For the meeting of October 14, 2008

TO: Town Council
FROM: Debra Stutsman, Town Manager
SUBJECT: Frontage Improvements

RECOMMENDATION

That Council introduce, waive reading and read by title only the attached ordinance amending Section 7-10.103 (b)(3) of the San Anselmo Municipal Code regarding the modification or reconstruction of any existing structure on any parcel of land abutting a public street.

BACKGROUND

The Council has adopted a Streets and Highways Plan consisting of a street deficiency report that shows the width to which public streets should be constructed in order to provide the traffic facilities required for the increased traffic burden occasioned by the full development of abutting parcels. This street deficiency report is on file in the office of the Public Works Director.

San Anselmo Municipal Code Section 7-10.102 (h) calls out that the "most equitable manner of spreading such costs is to require the owner of each parcel of land abutting a public street to dedicate the required right-of-way and to install frontage improvements to provide for the increased traffic burden occasioned by any further development of his abutting parcel of land to the extent that his parcel does abut such street and to require such installation at the sole cost and expense of the owner as a condition precedent to the issuance of a permit to develop such abutting property."

DISCUSSION

This code section allows the Town to require that frontage improvements be installed coincident with the remodel of a home. The language change contained in this ordinance specifies that properties that have improvements made to them that do not increase the structure's floor area are not subject to the frontage improvements. The previous ordinance language excepted additions to existing structures which do not increase the number of dwelling units. This language did not reflect the intention of the ordinance. The intention is to require frontage improvements when houses are enlarged in order to encourage needed drainage improvements and other frontage improvements.

Respectfully submitted,



Debra Stutsman
Town Manager

Attachment 1: Draft Ordinance
Attachment 2: SAMC §7-10.103(b)(3)

TOWN OF SAN ANSELMO

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 7-10.103 (b) (3) OF THE SAN ANSELMO MUNICIPAL CODE REGARDING THE MODIFICATION OR RECONSTRUCTION OF ANY EXISTING STRUCTURE ON ANY PARCEL OF LAND ABUTTING A PUBLIC STREET,

The Town Council of the Town of San Anselmo does ordain as follows:

Section 1. Section 7-10.103 (b) (3) of the San Anselmo Municipal Code is hereby amended to read as follows:

Section 7-10.103(b)(3) Development

The modification or reconstruction of any existing structure on any parcel of land abutting a public street, which modification or reconstruction will increase traffic: Excepting therefrom, (subsections (1), (2), and (3) of this subsection) additions to existing structures which do not increase the ~~number of dwelling units~~ **structure's Floor Area**, the construction of accessory buildings of "Group J" occupancy, and the construction of swimming pools

Introduced at a regular meeting of the Town Council on the ____ day of _____, 2008 and adopted thereafter at the regular meeting of the Town Council on the ____ day of _____, 2008 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ted Freeman, Mayor

ATTEST:

Barbara Chambers, Town Clerk

Chapter 10

STREET IMPROVEMENTS CONDITIONS TO BUILDING PERMITS*

Sections:

Article 1. Dedication of Street Rights-of-Way and Improvements Thereof

- 7-10.101 Regulations.**
- 7-10.102 Findings.**
- 7-10.103 Definitions.**
- 7-10.104 Appeals.**
- 7-10.105 Penalties.**

* Chapter 10 entitled "Street Improvements Conditions to Building Permits," consisting of Sections 7-10.101 through 7-10.105, as added by § 1, Ord. 1059, effective December 27, 2007.

Article 1. Dedication of Street Rights-of-Way and Improvements Thereof

7-10.101 Regulations.

No permit for the development of any parcel of land abutting a public street within the Town shall be issued until such time as the Town Engineer shall have certified:

(a) That if the portion of the street upon which the parcel fronts requires widening or extension to conform to the Streets and Highways Plan of the Town, rights-of-way for such widening and/or extension have been dedicated to the Town by the owner of the parcel; and

(b) That frontage improvements in accordance with the current Town specifications in use by the Department of Public Works and at the location prescribed by the Town Engineer in accordance with the Streets and Highways Plan of the Town have been installed at no cost to the Town; or

(c) That such frontage improvements will be so installed as a part of the development applied for and prior to occupancy thereof; or

(d) That in lieu of such improvements the applicant has deposited with the Town the estimated cost thereof; or

(e) That the improvement requirement should be waived or deferred due to extenuating circumstances. If the Town Engineer finds that improvements should be deferred, he shall require as a prerequisite to issuance of the permit that the owner agrees in writing to undertake the construction of the required improvements within ninety (90) days after written notice to begin construction is mailed to the owner at the premises or such other address as the owner may from time to time furnish the Town. Such agreement shall further provide that in the

event of the owner's default in commencing and completing the improvements, the Town may at its option:

(1) Treat the agreement as a petition for installation of improvements pursuant to the provisions of Sections 5870 et seq. the Streets and Highways Code of the State; or

(2) Cause the work to be done and the cost thereof assessed as a lien against the owner's property. Such agreement shall also run with the land and shall be recorded to constitute notice to prospective purchasers or encumbrances. (§ 1, Ord. 1059, eff. December 27, 2007)

7-10.102 Findings.

In enacting the provisions of this article the Council makes the following findings:

(a) That the Town has experienced and is experiencing increases in population, area growth, and development, the direct results of which are to render existing public streets inadequate to provide for vehicular and pedestrian traffic and storm drainage, thus impairing the public safety, health, and general welfare;

(b) That such inadequacy is and will continue to be further amplified by the continued and increasing development of parcels of land abutting such public streets unless some provisions are made for street widening and the installation of frontage improvements which will accommodate the increased traffic burden occasioned by such development;

(c) That the public welfare also requires that every structure have sufficient and permanent access to an adequate improved and public street;

(d) That the frontage improvements which will provide for such access and accommodate such increased traffic burden consist of widening and paving such public streets at the location of such abutting property and the installation of sidewalks, including curbs, gutters, storm drainage facilities, and driveways, to the extent that such parcels abut such public streets;

(e) That the Council has adopted a Streets and Highways Plan consisting of a street deficiency report showing the Council's best considered judgment of width to which the public streets of the Town should be constructed in order to provide the traffic facilities required for the increased traffic burden occasioned by the full development of abutting parcels in order to properly preserve the public safety and general welfare, which street deficiency report is on file in the office of the Director of Public Works and to which reference is made;

(f) That the general public has a vested interest in the existing capacity of public streets to provide for existing traffic and should not bear the cost of providing facilities

for increased capacity which is required by the further development of abutting parcels of land;

(g) That the cost and expense of alleviating the increased traffic burden required by the further development of abutting parcels of land should be borne by those who cause such increased traffic burden by such further development, and such cost should be borne in a fair and equitable manner; and

(h) That the most equitable manner of spreading such costs is to require the owner of each parcel of land abutting a public street to dedicate the required right-of-way and to install frontage improvements to provide for the increased traffic burden occasioned by any further development of his abutting parcel of land to the extent that his parcel does abut such street and to require such installation at the sole cost and expense of the owner as a condition precedent to the issuance of a permit to develop such abutting property. (§ 1, Ord. 1059, eff. December 27, 2007)

7-10.103 Definitions.

For the purposes of this article, certain words and phrases used in this article are defined as follows:

(a) "Public street" shall mean the full width of the right-of-way of any street, whether or not maintained by any public agency, except streets forming part of the State Highway System, which is: (1) Laid out or constructed as such by the Town;

(2) Laid out or constructed by others and dedicated or abandoned to or acquired by the Town;

(3) Made a Town street as part of the subdivision of real property pursuant to the conditions of the provisions of this Code covering subdivisions and the division of land; or

(4) Subject to public use in any other legally recognized manner.

(b) "Development" shall mean:

(1) The construction of any structure, either designed or intended for human use or occupancy, upon any parcel of land abutting a public street; or

(2) The moving of any structure, either designed or intended for human occupancy, onto any parcel of land abutting a public street; or

(3) The modification or reconstruction of any existing structure on any parcel of land abutting a public street, which modification or reconstruction will increase traffic:

Excepting therefrom, (subsections (1), (2), and (3) of this subsection) additions to existing structures which do not increase the number of dwelling units, the construction of accessory buildings of "Group J" occupancy, and the construction of swimming pools.

(c) "Frontage improvements" shall mean sidewalks, curbs, gutters, pavement, drainage facilities, and drive-ways constructed in accordance with specifications on file in the office of the Director of Public Works, the precise location of which shall be in accordance with that portion of the street deficiency report on file in the office of the Director of Public Works, which are applicable to the parcel of land for which such permit is applied.

(d) "Extenuating circumstances" shall mean that application of the improvement requirements, as applied to an individual property, by reason of the exceptional or extraordinary situation or condition of the property, or the location thereof, or of the use or development of other property in its immediate vicinity will involve practical difficulties or would cause undue hardship unnecessary to carry out the purposes and spirit of this article.

(e) "Town Engineer" shall mean the Town Engineer of the Town or his designate.

(f) "Pavement" shall mean pavement from the gutter lip to the center line of the street.

(g) "Right-of-way" shall mean the full width of land, irrespective of the current use, which by deed, conveyance, agreement, easement, dedication, usage, or process of law is reserved for or dedicated to the general public for street, highway, alley, public utility, or pedestrian walkway purposes. (§ 1, Ord. 1059, eff. December 27, 2007)

7-10.104 Appeals.

Any finding, ruling, or decision made in the administration of the provisions of this article shall be considered an administrative decision and shall be subject to appeal by any interested person to the Council by written notice filed within fifteen (15) days from notification of the decision. The Council shall hear such appeals upon not less than five (5) days' written notice to the appellant and may affirm, reverse, or modify the decision appealed from. (§ 1, Ord. 1059, eff. December 27, 2007)

7-10.105 Penalties.

Any building or structure erected or constructed in violation of the provisions of this article shall be and is hereby declared unlawful and a public nuisance. (§ 1, Ord. 1059, eff. December 27, 2007)