

CITY OF SAN ANSELMO

ORDINANCE NO. 572

AN ORDINANCE ADDING CHAPTER 8 TO TITLE 9 OF THE SAN ANSELMO MUNICIPAL CODE BY REQUIRING DEDICATION OF STREET RIGHT OF WAY AND CONSTRUCTION OF FRONTAGE IMPROVEMENTS AS A CONDITION TO GRANTING BUILDING PERMITS.

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

Section 1. There is added to the San Anselmo Municipal Code Chapter 8, of Title 9, to read as follows:

"Chapter 8. Street Improvements as Condition to Building Permit.

Article 1. Dedication of street right of way and improvement thereof.

9-8.01. Regulations. No permit for the development of any parcel of land abutting a public street within the City shall be issued until such time as the City 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 City's Streets and Highways Plan, rights of way for such widening and/or extension have been dedicated to the City by the owner of the parcel; and

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

(e) That the improvement requirement should be waived or deferred due to extenuating circumstances. If the City 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 he may from time to time furnish the City. Such agreement shall further provide that in the event of the owner's default in commencing and completing the improvements, the City may, at its option, 1) treat the agreement as a petition for installation of improvements under the provisions of Section 5870 and following of the California Streets and Highways Code, or 2) may 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 encumbrancers.

9-8.02. Findings. In enacting the provisions of this Ordinance, the Council makes the following findings:

(a) That the City has experienced and is experiencing increases in population, area growth and development, the direct results of which is 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 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 of 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 its best considered judgment of width to which the public streets of the City 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.

9-8.03. Definitions. For the purpose of this Ordinance, certain words and phrases used herein 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 City; (2) laid out or constructed by others and dedicated or abandoned to or acquired by the City; (3) made a City street as part of the subdivision of real property pursuant to the conditions of the San Anselmo Code provisions covering subdivision and division of land; or (4) subject to public use in any other legally recognized manner.

(b) "Development" shall mean the following:

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

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

(iii) 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, in i, ii, and iii, additions to existing structures which do not increase the number of dwelling units, construction of accessory buildings of "Group J" occupancy, and construction of swimming pools.

(c) "Frontage Improvements" shall mean sidewalks, curbs, gutters, pavement, drainage facilities, and driveways, 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 ordinance.

(e) "City Engineer" shall mean the San Anselmo City Engineer, or his designate.

(f) "Pavement" shall mean pavement from the gutter lip to the centerline 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.

9-8.04. Appeals. Any finding, ruling or decision made in the administration of this Ordinance shall be considered as an administrative decision and shall be subject to appeal by any interested person to the City Council by written notice filed within fifteen (15) days from notification of the decision. The City Council shall hear such appeal upon not less than five (5) days written notice to appellant and may affirm, reverse or modify the decision appealed from.

