

TOWN OF SAN ANSELMO
ORDINANCE NO. 959

**ADOPTION OF AN ORDINANCE BY THE TOWN COUNCIL OF THE TOWN OF
SAN ANSELMO APPROVING THE OAK AVENUE DEVELOPMENT
AGREEMENT FOR AN ENTITLEMENT TO BUILD FOUR (4) NEW HOMES,
APPURTENANT STRUCTURES, AND INFRASTRUCTURE, ON LAND
TOTALLING 16.2+ ACRES AT THE END OF OAK AVENUE IN THE R-1-H
ZONING DISTRICT (ASSESSOR'S PARCEL NUMBERS 7-154-02, 7-154-05, 7-
154-10, 7-201-02 AND 12, AND 7-154-08, 09, AND 11).**

WHEREAS, the Planning Commission of the Town of San Anselmo held public hearings on May 2, 1994, May 23, 1994, June 6, 1994, June 13, 1994, June 16, 1994, June 27, 1994, and July 5 to consider the above referenced application seeking an entitlement to ultimately construct four (4) new homes; and

WHEREAS, the Town Council of the Town of San Anselmo held public hearings on May 2, 1994, July 12, 1994, and July 19, 1994, to consider the above referenced application; and

WHEREAS, an Initial Study was prepared for this project and circulated for a 30 day review period ending June 6, 1994; and

WHEREAS, the environmental consultant for the project, John Roberto, has determined that the proposed project would not have a significant effect on the environment because the mitigation measures described in the Initial Study have been added into the project and that a Negative Declaration will be prepared; and

WHEREAS, although some modifications may have been made to the mitigation measures these modifications still result in measures which reduce the impacts to a level of less-than-significant; and

WHEREAS, the Planning Commission and Town Council have considered the Initial Study, recommendations of the Town of San Anselmo staff, the applicants (David Hansen, William Broderick, Linda and Michael Gill), and members of the public; and

WHEREAS, this ordinance and subsequent action shall apply to the applicants, including their heirs and assigns; and

FINDINGS OF FACT

WHEREAS, Government Code Section 65867.5 states that a development agreement shall not be approved unless the legislative body finds that the provision of the agreement are consistent with the general plan and any applicable specific plan; and

WHEREAS, the Town Council of the Town of San Anselmo has made the following findings regarding the consistency of the proposed development agreement with the General Plan:

Land Use Element of the General Plan

Density/Land Use

The Town of San Anselmo General Plan designates these properties as Very Low Density Residential (1 or less units/acre). The Plan states that "The number of units to be allowed on each parcel of land within this category will be based on the environmental constraints (e.g., slope, unstable soils, stream courses, etc.) and open space objectives associated therewith. The Town of San Anselmo has reviewed the development potential of each parcel in the hillside and ridge area. From this review emerged the maximum number of dwelling units to be allowed on each parcel. The maximum number of dwelling units to be allowed is designated in the official "Table of Hillside and Ridge Density Parcels" adopted by the Town Council". That table (Table 4D), which is located in the Zoning Ordinance, assigns the following maximum number of units to each respective parcel. It should be noted that the term "maximum" means that up to the specified number of units may be allowed, subject to permit approval.

Property Owner	Parcel No.	Maximum Units per General Plan	Units proposed
Broderick	7-201-02	1 unit	1 unit
Broderick	7-201-10 (now 7-101-01 & 7-154-01)	3 units	2 units
Hansen	7-154-02	1 unit	1 unit
Total		5 units	4 units

A maximum of five (5) residential units are allowed under the General Plan for the subject parcels. However, four (4) units are proposed thus reducing by one (1) the maximum number of units allowed. Based on the soils and geology report and slope information, no major constraints to constructing four units appear to exist. The access to Lot 2 would be circuitous and require substantial fill. However, the addendum to the soils report states that grades can be kept to 15% and less. Two of the lots contain level pads and would appear to need only minimal grading. Pier construction is envisioned for the other two sites which could also result in minimal grading. Based on these factors, four units on the subject parcels conform with Land Use Element policies regarding density and land use. (Policies 3.1, 9.1) The applicants are voluntarily giving up any right to a potential fifth unit by granting a conservation easement.

Public Services/Roads

The project applicants propose to extend the existing public sewer line, install private water wells for domestic and fire use, and widen and improve the existing roadway. While public water services are preferred, the use of water wells do not conflict with Town policies. (Policies 1.2, 3.2, 12.2, 13.2). Provisions to improve Oak Avenue to a

width of 15' above South Oak Avenue, including mitigation measures, addresses policies regarding public safety and rural character. More specifically, a fifteen foot width has been determined by the Public Works Director and Fire Chief to enable a passenger car and fire truck to safely pass while not substantially altering the rural character of the area. Currently, Oak Avenue varies from 18 feet down to 9 feet in width, and curbs exist only along parts of the road. Unless needed for drainage control, curbs are not envisioned for the improved portion of Oak Avenue. Thus the project conforms to policies which require hillside roads to be similar in width and character to the existing roads, yet provide adequate safety. (Land Use Element Policies 9.5, 9.6, 10.4 and Circulation Element Policies 10.1, 10.2, 10.3)

In addition to roadway improvements proposed in the development agreement, conditions of approval developed from the Traffic Impact Study on this project are included whereby the applicants will be responsible for installing or constructing short-term roadway improvements (e.g., yield sign, convex mirror, paving), as well as contributing toward long-term roadway improvements (e.g., road widening). Costs of the long-term improvements were estimated by the Towns Public Works Department. Those costs, including a 50% contingency factor, total \$14,100. In order to assign a fair share contribution toward these latter improvements, staff research found that the vacant properties along Oak Avenue and South Oak Avenue, which would benefit from the improvements and are subject to conditions of approval upon development application, would allow 15 potential new homes, including the four proposed as part of this development agreement. Therefore, a formula of 4/15ths was derived representing these project applicants' fair share contribution. The condition calculates a cost per unit based on this formula and based on staff research estimating the cost of the improvements.

Protection of Ridges and Hilltops

Although none of the building envelopes are located within the ridge zone, portions of Lot 1 and Parcel 1 (northwestern portion) are. According to the proposal, "Outside of the building envelope limit line accessory structures and uses, consistent with the zoning code, may be permitted". Conditions of approval will restrict any development within the ridge zone areas. In this manner, development within the ridge zone will be prohibited and such areas preserved consistent with the General Plan. (Policies 2.1, 7.2, 7.5, 9.2, 9.3)

Protection of Visible Hillside

Policies not only relate to ridge tops but also visible hillsides. A visual analysis has been done as part of the Initial Study. Recommendations for minimizing visual impacts on this visible hillside will be incorporated either as mitigation measures or conditions of approval and include such items as placement of the structure on the lot, limiting building mass, if necessary, and minimizing tree removal, grading, and non-safety lighting. In addition, when the actual structures are proposed, they will be subject to design review which evaluates visual impacts in greater detail to ensure they blend with the surrounding environment. Incorporation of such measures will help to retain the natural character of the hillside consistent with General Plan policies. It does not appear that major geologic, soils, hydrologic constraints exist that limit the location of development. However, topography and screening by trees will affect building location. (Policies 2.1, 9.2, 9.3, 9.4, 9.7, 9.8, 10.3, 10.5, 11.1, 11.2)

Preservation of Open Space/Trails

The project site is identified in the Open Space Plan of the Town's General Plan as being "proposed open space". Because of funding constraints, acquisition of the property is not possible, however the project will be reviewed for conformance with applicable General Plan policies.

An approximately 2.33 acre lot (Lot 3) is located in the southwest portion of the project site over which a non-development conservation easement is proposed. According to the application, this lot was selected because it is at a higher elevation and is the most visible. The land would remain in private ownership but remain undeveloped.

Two hiking trails proposed for public use are also shown on the plans. One is the Oak Avenue Limited Access Easement which connects the paved end of Oak Avenue with Worn Springs Road (fire road) and the MMWD watershed lands. The second trail is referred to as the "Steep Trail" and passes through the northern portion of Parcel 1. This trail begins off-site at Redwood Road where it ultimately connects with Worn Springs Road. The proposal would reroute the upper part of the trail onto the Oak Avenue Limited Access Easement. The plan proposes that the "Steep Trail" be limited to pedestrians. Regarding the Oak Avenue Limited Access Easement, use is limited to pedestrian, bicycle and equestrian access (as specified in the Stipulated Agreement).

Inclusion of the conservation easement lot and public trails enables the project to conform with General Plan policies. (Policies 7.3, 7.4, 7.6)

Fire Safety

A fire protection plan has been submitted with the application and has been approved by the Fire Chief. The plan states that fire sprinklers will be provided in each new dwelling. The plan also calls for the removal of flammable plant materials within 30 feet from all buildings, safety-pruning trees, and thinning tree canopies up to 25% of the total area. The extent of these measures will be weighed against visual impact policies; however, safety will be of key importance. The expanded roadway in this area will include turnouts for easier passing, and a turnaround for emergency vehicles. No parking would be allowed on the roadway. From a fire safety standpoint, these provisions are in conformance with the General Plan. (Policies 13.1, 14.1, 14.2, 14.3)

Circulation Element

Four turnouts and a turnaround are proposed along Oak Avenue to improve circulation during normal and emergency conditions. A minimum of three onsite parking spaces per dwelling unit will be required. In addition, a construction plan designed to minimize the impact of construction vehicles on existing roads will be required.

A traffic study has been conducted which found the level of service (LOS) at critical intersections would remain unchanged as a result of this project and cumulative traffic. Policy 3.3 states that the LOS will not be allowed to drop below 'D' unless it is in the public interest and consistent with other policies. However, "The Hub" already operates at LOS E. While new traffic generation will exacerbate that condition, the

LOS will not be reduced below E. The intersection at Bolinas Avenue and Sir Francis Drake Blvd. operates at LOS A and will remain unchanged. Existing roadway conditions were also evaluated and mitigation measures are recommended in addition to those improvements proposed by the project. In order to finance the improvements, the project applicants propose an assessment district or private assessment. Based on the above, the project is in conformance with the General Plan. (Policies 1.2, 3.1, 3.2, 3.3, 10.4, 10.5, 10.6., 11.1, and 11.2).

Open Space Element

Preservation of open space, ridgetops, and provision of trails are discussed above under the Land Use Element. Although a formal meeting has not occurred with the Town's Open Space Committee, funding is not available for acquisition of these lands. Consequently, policies regarding development densities and ridge protection policies are applicable. Based on this review, the proposal is in conformance with the General Plan. (Policies 1.4, 1.5, 4.4, 4.5, 4.6, 4.7)

Housing Element, Recreation Element, Noise Element

None of the objectives or goals stated in these elements apply directly to this project.

THEREFORE, BE IT RESOLVED that the Town Council of the Town of San Anselmo hereby approves the Oak Avenue Master Plan and Development Agreement inclusive of the following exhibits and subject to the following changes:

- Exhibit A - Property Description
- Exhibit B - Stipulation
- Exhibit C - First Interlocutory Judgment
- Exhibit D - Limited Access Easement
- Exhibit E - Project Description
 - I. Uses Permitted on Property
 - II. Public Health and Safety Improvements (includes Fire Protection Plan)
 - III. Conservation and Trail Easements
 - IV. Financing and Maintenance of Improvements
- Exhibit F - Schematic Base Map
- Exhibit G - Enacting Ordinance
- Exhibit H - Mitigation Monitoring and Reporting Program
- Exhibit I - Conditions of Approval

Incorporate the following additions or changes into the Development Agreement:

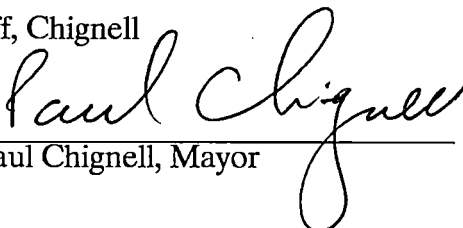
1. "Compliance with State and Federal Laws.

Nothing herein contained shall preclude the application to any of the property owners or the property involved in the application herein of state or federal laws or regulations or local laws relating to public health and safety. In the event state or federal laws or regulations or local laws relating to public health and safety enacted after the approval of the Development Agreement prevent or preclude compliance with one or more provisions of the Development Agreement or require changes in plans, maps or permits approved by the Town, the Development Agreement shall be modified as may be necessary to comply therewith, including any existing plans, maps or permits (unless vested under law)."

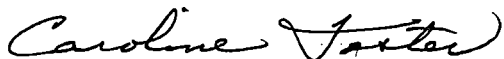
2. "In the event the applicant is not able to demonstrate to the Town of San Anselmo and the County Health Department that domestic water can be supplied for each home site in compliance with all applicable standards and policies, the tentative map will be not approved, nor will any building permit be issued for a home on any existing lot unless provision are made to provide MMWD water to the development."
3. "Should water service from MMWD become available in the future for domestic service or fire protection, the property owners hereby agree to connect to MMWD's water service."
4. "If conflicts or ambiguity arises concerning the content or application of land development provisions contained within this Development Agreement, it shall be the duty of the Planning Director of the Town of San Anselmo to ascertain all pertinent facts and interpret the provisions. If a dispute arises regarding the Planning Director's interpretation, the Town Council shall make the final determination. This shall have no effect on any party's right to litigate any dispute over the Development Agreement or any of its provisions."
5. Amend Exhibit E to include language contained in the Stipulated Agreement, Notice of Consent to Use of Land (page 2, Nos. 4, 5, 6) regarding the trail easement along Oak Avenue.
6. Amend Exhibit E.II D.4., under Fire Protection Plan, by adding the words "..., including the garage,..." after the phrase "...in each new dwelling".
7. Add 4.4. to the Development Agreement as follows:
 "4.4. Exemption: The property owner of Assessor's Parcel 7-154-09 and 11 (currently Michael and Linda Gill) and the heirs, successors and assigns of this property, shall be exempt from all obligations and duties under the Agreement. Such exemptions shall not affect the following:
 - The obligation to deliver the Limited Access Easement required by the Stipulation and First Interlocutory Judgment;
 - The obligation to incorporate the residual parcel 7-154-10 as part of 7-154-09 and 11 or into the Conservation Easement parcel (Lot 3);
 - The obligation to provide an easement for conveyance of water for fire protection purposes via the water distribution lines and hydrants, to Parcels 7-154-02, 7-201-02, and 7-154-10."

PASSED AND ADOPTED by the Town Council of the Town of San Anselmo on July 19, 1994 by the following vote:

AYES: Breen, Kroot, Yarish, Zaharoff, Chignell
 NOES: None
 ABSENT: None


 Paul Chignell, Mayor

ATTEST:


 Caroline Foster, Town Clerk