

TOWN OF SAN ANSELMO
RESOLUTION NO. 3053

A RESOLUTION OF THE SAN ANSELMO TOWN COUNCIL DENYING A REQUEST FOR AN EXEMPTION TO ORDINANCE #893 BY PAUL J. AND MARIE NAVE, AND ANDY BACHICH FOR APN 07-201-08 IN THE TOWN OF SAN ANSELMO.

WHEREAS, on January 11, 1988 Paul J. and Marie Nave, and Andy Bachich filed a request for an exemption under Sections 1D3 and 1D4 of the Town's Interim Ordinance #893; and

WHEREAS, after numerous discussion and an on-site meeting with the Town's Planning Consultant, the applicants decided to pursue their exemption request at a public hearing before the Town Council; and

WHEREAS, the Town Council held a duly noticed public hearing on March 22, 1988 to the consider the exemption request; and

WHEREAS, after careful consideration of the facts and testimony at the public hearing the Town Council found that the granting on an exemption request under Section 1D3 of Ordinance #893 would be detrimental to and jeopardize the orderly review of the general plan and zoning proposals the Town Council and Planning Commission intended to consider and study with public participation; and

WHEREAS, after careful consideration of the information and facts the Town Council found that the applicants did not demonstrate a hardship due to special circumstances applicable to the property in question as required under Section 1D4 of Ordinance #893.

NOW THEREFORE BE IN RESOLVED AS FOLLOWS:

The San Anselmo Town Council hereby denies the exemption request under Section 1D3 of Ordinance #893 based on the following findings:

1. The parcel of land (APN 07-201-08) under consideration is located within an area classified as hill and ridge within the current general plan and Town Zoning Ordinance. The subdivision of this parcel will raise such issues as to what criteria will be used to locate home sites in order to preserve the visual character and open space objectives associated with hillside and ridge parcels. One of the proposals the Town Council will consider in the review of the general plan is the adequacy of existing development policy in preserving and maintaining the visual characteristics of these areas.
2. The Town Council will consider the adequacy of existing roads which provide access to hillside and ridge parcels.

Consideration will be given to planning issues such as roadway expansion, maintenance responsibility and parking on narrow circuitous roads which provide access to hillside and ridge areas. The primary access to the subject parcel is Oak Road. This street is a narrow circuitous roadway which is deteriorated in part and not maintained by the Town. The Town will consider in the general plan alternative policy positions relative to the extent of improvements that can be requested of new development given that the existing road is privately owned.

3. The property under consideration is not currently served by MMWD, and does not have direct access to a sewer collection line. The Town Council will consider policy issues in its review of the general plan such as whether or not development in the hillsides should be required to hook into public water and sewer lines, or can be served by private systems. These issues raise public health and safety policy questions such as whether or not a private water system can provide adequate water to protect planned development from undue fire risk, or whether on site wastewater disposal systems create additional landslide problems in areas identified as having high geologic risks due to the slope of land and geologic conditions.
4. Some residents in the area effected by this exemption request, testified that at this time, without proper policy guidance in the general plan, the granting of an exemption request would jepordize the health and safety of their neighborhood. The health and safety issues included the traffic safety hazards associated with the narrow, circuitous, and deteriorated condition of Oak Road, and the fact that the Town has no adopted policy position on how the impacts associated with the further subdivision of land on this road will be mitigated. The granting of an exemption permit to allow the processing of a subdivision application would mean having to resolve roadway access and improvement issues on a case by case basis rather than through an orderly review of the Town's planning policies.
5. The Town's review of the General Plan is underway and is on schedule.

NOW THEREFORE BE IT FURTHER RESOLVED THAT:

The San Anselmo Town Council hereby denies the exemption request under Section 1D4 of Ordinance #893 based on the following findings:

1. The application for an exemption permit does not contain any evidence or facts that there are any special or unique circumstances relative to the property that are creating a hardship.
2. The basis of the hardship stated by the applicants, in the request, is a result of actions taken directly by the owners themselves to speculate, and incur costs relative to the subdivision of their undeveloped property.

3. The owners of the property are not prohibited from filing a design review and building permit applications for the construction of a home on the property. The construction of one home will give the property a higher market value than it has today, and may offset some of the upfront monies spent by the owners of the property.
4. Ordinance #893 is a limited restriction in terms of the processing of a subdivision application for the property in question, and the applicants claim of economic hardship is not unique to the property. Upfront development costs, including monies paid for geologic and on site sewage disposal systems are not a unique situation, and are found in many speculative real estate ventures. Furthermore, the carrying cost of a speculative subdivision is not envisioned, in Section 1D4, as a basis for claiming a unique hardship relative to property.

The forgoing resolution was adopted and passed at a regularly scheduled meeting of the San Anselmo Town Council held on April 12, 1988, by the following vote:

AYES: Chignell, Sharp, Wooliever, Cordingley

NOES: Walsh

ABSTAIN: (None)


MAYOR

ATTEST:


DEPUTY TOWN CLERK