

TOWN OF SAN ANSELMO

RESOLUTION NO. 3081

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO
DECLARING THE USE AND OPERATION OF THE PREMISES OF
THE CHURCH OF THE DIVINE MAN, 1381 SAN ANSELMO AVENUE,
A/P 7-052-55, 7-052-56, 7-052-57, 7-052-58, 7-052-59,
TO BE A PUBLIC NUISANCE AND ORDERING THE ABATEMENT THEREOF.

WHEREAS, the Town Council on Tuesday, March 7, 1989, pursuant to law, conducted a public hearing on the issue of compliance by the Church of the Divine Man with the conditions of Resolution 88-11, specifically, conditions 1, 2 and 3, which provide:

(1) The total number of parishioners, Church members or other persons who attend or are involved with any type of Church function or operation at this site, including Church staff, shall be limited to no more than forty (40) persons at any and all times.

(2) Church functions of any kind shall be limited to no more than two (2) evenings per week between Tuesday and Friday; weekend use shall be limited to the level described in the applicant's letter dated July 8, 1988:

Weekdays: 9:00 - 7:00; plus 2 evenings per week
Saturdays: 9:00 - 6:00
Sunday: 9:00 - 6:00

(3) All Church activities held in the evenings shall end no later than 9:00 p.m. This shall be a firm closing time. The parking lot shall be empty by 9:30 p.m.

WHEREAS, the following witnesses were duly sworn and gave testimony: San Anselmo Police Officer Andrew Smith, San Anselmo Police Officer Ken Greco, San Anselmo Police Sergeant Robert Cary, Lorraine Ferrarese, 24 Elm Avenue, Mary Ann Smythe, 28 Elm Avenue, Mary Ann Marsili, 26 Elm Avenue, Scott Van Leuven, 1382 San Anselmo Avenue, William De Bisschop, 91 Elm Avenue, and Public Works and Planning Director John Kottage; and the following documents were entered into the record:

San Anselmo Police Department logs monitoring the number of vehicles in the church parking lot and on adjacent streets, and the meetings held at the church on weekday and weekend evenings at 7:30 p.m. and 9:30 p.m. between January 17, 1989 and March 5, 1989, marked "Exhibit 1."

The staff report prepared for the hearing, marked "Exhibit 2."

Statement of Scott and Annie Van Leuven, marked "Exhibit 3."

WHEREAS, the Church of the Divine Man was represented by John Corley, an attorney, who advised the Town Council that no representatives of the Church wished to offer any testimony at the hearing; accordingly, the public hearing was closed.

After receiving comments from Mr. John Corley on behalf of the Church, and from Hadden Roth, Town Attorney, the Town Council:

RESOLVED:

- (A) That there is clear and convincing evidence that:
- (1) The Church has made no effort to comply with conditions 1, 2, and 3 of Resolution 88-11 in that the Church has continuously conducted Church functions, meetings and operations at the site with more than 40 persons present at the site at one time; has continuously conducted Church functions in the evenings during the weekdays between Tuesday and Friday and on weekends, and has continuously refused to terminate evening activity by 9:00 p.m., or require that the parking lot be empty by 9:30 p.m.;
 - (2) The above violations present the following negative impacts and safety hazards:
 - (a) Safety hazards to pedestrians and bicyclists due to the large number of Church related cars driving on the narrow, winding neighborhood streets which do not all have sidewalks;
 - (b) Safety hazards due to heavy traffic on narrow, winding neighborhood streets, particularly in the evenings, as parishioners arrive and depart from programs held at the Church;
 - (c) Noise generated by the large number of cars driven to Church programs, particularly to evening programs; noise impacts on the neighborhood when the Church programs disband and parishioners start car engines and depart all at once;
 - (d) Cumulative negative impact created by combination of the above.
- (B) That the above described level of use is detrimental to the health, safety, peace, comfort and general welfare of persons residing in the neighborhood surrounding the Church of the Divine Man; this level of use therefore constitutes a public nuisance and there is a compelling public necessity for the abatement thereof.

FURTHER RESOLVED:

- (1) The Church of the Divine Man shall have 15 days to bring its use and operation within the parameters set forth in conditions 1, 2 and 3 of Resolution 88-11; failing that, the Town Attorney is directed to proceed with appropriate legal action to enjoin continuation of the public nuisance described above.
- (2) The Public Works Director is directed to conspicuously post a copy of this resolution on the subject property and to mail a copy of the resolution to the Church.


TOWN CLERK

I hereby certify the foregoing resolution was duly adopted at the regular meeting of the Town Council of the Town of San Anselmo held on March 14, 1989, by the following vote, to wit:

AYES: Chignell, Colteaux, Walsh, Zaharoff, Sharp

NOES: (None)

ABSENT: (None)

Caroline Foster
TOWN CLERK