Woodland City Council Minutes Council Chambers 300 First Street Woodland, California

October 30, 2000

CITY COUNCIL SPECIAL SESSION

Mayor Steve Borchard called the Special Session of the City Council of the City of Woodland to order at 7:01 p.m.

ROLL CALL:

COUNCIL MEMBERS PRESENT: Dote, Flory, Monroe, Peart, and

Borchard

COUNCIL MEMBERS ABSENT: None

STAFF MEMBERS PRESENT: Richard Kirkwood, Phillip Marler, Steve

Harris, Ann Siprelle, Sue Vannucci, Charlie Wilts, Bill Paulson, Joel Luevano,

John Nail

ALSO PRESENT: Bob Martino, Property Owner

PLEDGE OF ALLEGIANCE

Mayor Borchard invited those in attendance to join him in the pledge of allegiance to the Flag of the United States of America.

PUBLIC COMMENT:

Jim Heffernan, President of the Board of Building Appeals stated a great deal of money has been spent on the issue before the Council and the issue has not been brought before the Board of Building Appeals for consideration. The International Conference of Building Officials (ICBO) could also address questions regarding this issue. There appear to be two issues: (1) whether the permit is valid, (was a proper building permit issued), and (2) should all construction on this parcel have been reviewed by the Planning Commission. City Attorney Ann Siprelle stated this issue does

not fall under the purview of the Board of Building Appeals as it is not an issue of Code interpretation.

Mary Lacky spoke in support of those who wish the building removed as did Kenton Keithly and Katherine Hare. Joe Johnson stated that should we change the way we have been handling this type of permit, we would be making it retroactive to deviate from the processes followed in the past. Katherine Hare read a letter appealing the Hearing Officers' decision, which was signed by supporters of the appeal. Joe Keehn stated he had a similar situation several years ago. He provided a 1946 Declaration of Restrictions (CCRs) for the neighborhood, which were to be renewed in 1995 and every ten years thereafter. Others who spoke on this issue were Dudley Holman and Jim Barrett.

APPEAL OF THE DECISION OF THE HEARING OFFICER REGARDING NUISANCE ABATEMENT OF THE ACCESSORY BUILDING LOCATED AT 410 CASA LINDA DRIVE:

City Attorney Siprelle said the process of the appeal is to weigh the evidence and make a decision. She summarized the information provided and said that members of the public do not have the right to appeal the decision. As the Hearing Officer decision holds a great deal of weight, the Council must prove the decision to be overwhelmingly incorrect. The Council will be rehearing the evidence presented to the Hearing Officer. The issues are: (1) was a valid permit issued, and (2) was design review on all buildings to go before the Planning Commission.

Council Member Peart asked for clarification on the legal ramifications should the Council overturn the Hearing Officer decision. The City Attorney said that if the Council weighed the evidence carefully, it would be unlikely that a question regarding the decision of Council would be heard.

Joel Luevano, Code Enforcement Officer for the City, summarized the steps which had taken place regarding the lot split and permit issuance. Community Development Director Steve Harris reviewed the materials Council received regarding this issue and summarized the timeline of events.

Council Member Dote if the CCRs say anything about construction or the five-foot easement. City Attorney Siprelle said the CCRs state no building shall be built within twenty-five feet of the front lot line or nearer than five feet of the line of contiguous property owner. The CCRs are not enforced by the City, but by the property owners.

There is a five-foot easement. Property owners can choose to encroach on the easement, but must contact public utilities regarding the encroachment, and be aware

they may need to address that encroachment at some point.

Mr. Bob Martino, Property Owner, said he bought the property based on his knowledge of the conditions at that time. He felt he should be able to rely on the information provided without it changing at a later date. He would have reconsidered purchasing the property if he had known that additional restrictions would be placed on the property. Planning did not make the decision to send this to the Planning Commission. Thirteen other lots in the area have accessory buildings, which did not have to be reviewed prior to building. On June 28th he submitted his plans for the house and a few days later for the accessory building. He did this as it was much easier to pour the foundation on the accessory building without the home in the way. The permit was issued consistent with how all others had been issued in the past.

Council Member Peart asked if Mr. Keithly could go into the Planning Department tomorrow and apply for an accessory building permit and would be required to have a design review. Mr. Martino replied that he could and no design review would be required. He could also build a larger building.

Mayor Borchard asked Director Harris about a square footage requirement when the two buildings together go over a certain threshold that is permitted by the UBC. Director Harris stated there is a requirement in the Uniform Building Code that requires structures over 120 square feet to have a building permit. There are restrictions in our own City Zoning Ordinance on the size of accessory buildings, which cannot exceed 1000 square feet or, 30% of the rear yard. There is typically, in residential zones, a gross lot coverage for all buildings or. Mayor Borchard asked if the two permits together would then violate this Code. Director Harris said the main structure is 1662 square feet plus the garage, another 450 square feet, approximately, and the 256 for the accessory building which total about 2300 square feet. The size of the lot is 5900 square feet.

Mr. Martino stated the accessory building and the house couldn't take up more than 50% of the lot square footage. His home and accessory building are between 30% and 35% of the entire lot. City Attorney Siprelle said that any building over 120 square feet requires a separate permit as per current code.

Council Member Monroe asked that even though it is in violation of the current code, is it still done. Mr. Martino stated it has been in done since the 1950's. However, ICBO states that many jurisdictions interpret the section differently. The Code body (ICBO) says in Section 106 that a separate permit is required for separate buildings, however we understand that many jurisdictions just require a good diagram of the garage in a single family dwelling due to the fact that a garage is typically a box type construction.

Mayor Borchard asked if Mr. Martino was aware of the hearing on February 16, 1999 for the lot split. Mr. Martino stated in the affirmative. Mayor Borchard stated then that Mr. Martino was aware that Council had wanted design review on all building on that property. Mr. Martino stated that notices said only the residence. Mayor Borchard asked Director Harris if Mr. Martino was given information on the stipulations on the residence. The minutes said any construction in the appeal. Mr. Martino said he was given the conditions, which said only the house and relied on the Planning Commission for any deviation from the conditions. Planners did not think the accessory building was to be reviewed. He was very careful to make the house compatible with the neighborhood. He said he was present at the appeal hearing and does not recall any discussion on the accessory building.

Vice Mayor Flory asked him why he bought the property. Mr. Martino said Ms. Fowler was in the process of separating the lot and he saw the "For Sale" sign.

Council Member Peart left the meeting at 8:21 and returned at 8:23.

Council Member Dote said that the For Sale sign was out prior to the approval of the lot split. Mr. Martino stated he had indicated his interest in the lot should Ms. Fowler be successful in receiving the split. Council Member Monroe said the Hearing Officer indicated the review applied only to the residence. Mr. Martino said that he feels the Hearing Officer looked at the facts presented in coming to his conclusion.

Council Member Dote stated in the materials presented it states all buildings would be reviewed. Mayor Borchard asked if the Hearing Officer had been given information regarding the requirement of the accessory building to have a design review. The Hearing Officer said there was ambiguity and it should be in favor of the individual property owner, not the City. Mr. Martino stated that he must divulge to any future owner of that property that anything built on the property must go before the Planning Commission for review. He feels that diminishes the value of his property.

Mayor Borchard stated that Council had said "any" and "all" construction and that information was not provided to the property owner. Director Harris said it is difficult for him to respond, as he was not an employee at that time. Don Fleming, the Interim Community Development Director, had written in the first part of the Council Communication that "any" construction would be reviewed, but later stated that only the residence was to be considered for review. The minutes then stated that any construction would be reviewed and is not consistent with the recommendations to the Planning Commission. There are a great deal of inconsistencies on the issue. His understanding was that it applied only to the residence.

CITY COUNCIL MINUTES OCTOBER 30, 2000 PAGE 5

Vice Mayor Flory said that Council was considering any building and the Planning Commission was only considering the residence. Council Member Monroe said it appears that Mr. Martino was never given anything written to say he was required to submit for the accessory building.

City Attorney Siprelle said if there was an error as determined by the Hearing Officer, the citizen would not be at fault. Council Member Monroe asked if Council decided it was not lawful would it be Mr. Martino's responsibility and cost to abate. City Attorney Siprelle stated if it was determined that Mr. Martino needed to apply for a permit and go before the design review process it would be at Mr. Martino's expense.

Bill Paulson said the Planning Commission had written a statement that it was the residence only, which required a plan review. He feels the Council did not communicate their intent to the Planning Commission.

Council Member Dote asked if there was another letter about the compatibility of the unit. Vice Mayor Flory said there was a letter from the Real Estate Agent that the home should be built in compatibility with the neighborhood. Council Member Monroe asked the City Attorney if Mr. Martino appealed to the Court would we be liable and she said he could go to the State Court and he would be liable for the cost. If the City is found to be arbitrary or capricious then we would be liable for a small amount.

Council Member Peart said there are a great deal of things wrong with the process in general and it is very confusing. He commended the City for utilizing an outside party and feels the Hearing Officer made a fair decision, which the Council should uphold.

Vice Mayor Flory feels that the intent of the Council was to have design review on all buildings. There was no discussion of an accessory building at that time. He feels the decision should be overturned and sent back to the Planning Commission for design review.

Council Member Monroe said Mr. Martino is also a citizen and has the same rights as any other citizen. He has a problem with others in the area not required to have a design review and supports the Hearing Officer decision. He feels that we cannot go back retroactively to someone.

Council Member Dote said that the Planning Commissioners were very concerned about the lot split. The first request was denied because if the past laws on lot size. When the laws changed, the split was allowed. She does not feel the building permit is valid and she would like to reverse the Hearing Officer decision.

CITY COUNCIL MINUTES OCTOBER 30, 2000 PAGE 6

Mayor Borchard said that on February 16, 1999, when this came to Council for review they had expressed concern that any building should go for review. There appears to have been an error on the Staff Report at that time. The intent of the Council was not conveyed properly. There was no mention of an accessory building at the time the plans were submitted. The special circumstances to allow the lot split were clear. He disagrees with the Hearing Officer decision. This should go to the Planning Commission for review.

City Attorney Siprelle stated the motion should include an order to file an application for a building permit for the accessory building within a set time period.

On a motion by Council Member Dote, seconded by Vice Mayor Flory and carried, the City Council reverse the decision of the Hearing Officer on the property at 410 Casa Linda Drive. On roll call, the vote was as follows:

AYES: Council Members Dote, Flory, Borchard

NOES: Council Members Monroe, Peart

ABSENT: None

ABSTENTIONS: None

On a motion by Council Member Dote, seconded by Vice Mayor Flory and carried, the City Council ordered abatement of the nuisance by requiring the filing of an application for permit by November 9, 2000. On roll call, the vote was as follows:

AYES: Council Members Dote, Flory, Borchard

NOES: Council Members Monroe, Peart

ABSENT: None

ABSTENTIONS: None

Mr. Martino stated that City Code allows thirty days to file a legal action and requested the date for abatement be beyond that thirty-day period. Mayor Borchard thanked Mr. Martino for his input but the motion was not amended.

CITY COUNCIL MINUTES OCTOBER 30, 2000 PAGE 7

City Attorney Siprelle said she would work with staff to send out a written notification of the decision on October 31, 2000.

ADJOURNMENT:

At 9:12 p.m. the special meeting of the City Council was adjourned to the regular meeting of November 7, 2000.

City Clerk of the City of Woodland

F:\HOME\svannucc\CouncilMinutes\2000\10-30-2000.doc