

**TOWN COUNCIL MEETING  
NOVEMBER 17, 1988**

The special meeting of the Town Council was called to order on October 17, 1988, at 8:00 p.m. in the Council Chamber by Mayor Sharp. Staff present: John Kottage, Director of Planning and Public Works, and Hadden Roth, Town Attorney.

**ROLL CALL**

Councilmembers present: Walsh, Zaharoff, Colteaux, Chignell, Sharp

**B. PUBLIC HEARING**

The appeal of the Planning Commission's Approval of PP-9 - Robert M. Yeakey, 80 South Oak Avenue, A/P 7-241-50, preliminary plan review of a single family dwelling in an R-1H zone and AR-7, architectural plan review of a single family dwelling in an R-1H zone.

The applicant, and Neil Sorensen, Attorney, were present.

John Kottage presented the staff report, which included a history of the proposed application.

Councilmember Chignell stated that the applicant has submitted a great amount of geotechnical information and wondered if Staff has received any information from the appellants to substantiate their concerns? John Kottage said the neighbors concerns were based on the history of instability in the area and the results of a study Countywide, marking out unstable areas.

Councilmember Chignell asked if Mr. Kottage was satisfied that the \$50,000 bond: Mr. Kottage said that staff was hoping that the bond will not have to be used. However, in the event it is needed, it is available to cover damages. The applicant is going to be doing the work in the dry weather and slides do not generally occur then.

Judy Gibson, 475 Oak, speaking on behalf of Nancy Cecil, questioned where the paving will begin and end, noting that a stretch of roadway is ignored in front of the Cecil's. All of South Oak should be repaved or they will feel prejudiced against, holding the Town responsible. Also, the area of roadway to be repaved was not clearly spelled out in the conditions. There is a dangerous 180 curve on Oak and is concerned about the trucks on this turn. Mrs. Gibson thought there should be a focused EIR on this site and asked why there was never an independent soils study done of the area as was suggested at one of the Planning Commission Meetings. Mr. Kottage said the Code gives staff authority to ask the applicant to improve the frontage of his property, however he is going beyond requirements of the Code. Caution will have to be exercised on the curve, however San Anselmo has many narrow roadways, perhaps trucks could use extreme caution and have their lights turned on at this particular stretch of the road. With regards to the independent soils study, the applicant felt enough information had been obtained and did not want to pay for another study. Mr. Kottage noted that a reputable engineer had been used and he felt satisfied with the findings. With regards to a focused EIR, R-1 an residence is categorically exempt.

Mrs. Gibson said that her property has sustained severe damage due to land movement and they have had to put in a \$100,000 retaining wall. The big objective is the size of the house and the fact that the owner must be responsible for any and all damage to the roadway during construction. Mr. Kottage agrees that Mr. Yeakey has consented to be responsible for portions of the road and conditions number

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16 through 24 put the burden of responsibility on the applicant.

Mayor Sharp asked what portions of the roadway were referred to in condition number 20. Mr. Kottage responded, saying Oak Avenue and South Oak Avenue.

Mr. Cecil, 1 South Oak, thought the Town was issuing a license to Mr. Yeakey to destroy the road, adding there are legal loopholes in the conditions. All the neighbors thought they were being protected but the conditions do not reflect that. Mr. Kottage replied that all parts of the road will be protected, not overlaid. Mr. Yeakey said he will improve from the end of the Town maintain portion of Oak Avenue and continuing up Oak Avenue for the full length of South Oak Avenue.

Dawn Whitermore, 535 Oak Avenue, asked if the bond will be a sufficient amount to cover the damages and who will enforce? Mayor Sharp indicated that was spelled out in the conditions.

Devi Treewater, 1000 South Oak Avenue, asked about drainage, as she has had severe drainage problems in the past. She is concerned about added water in the drain and wondered if the additional runoff could create slides. She would feel safer if an independent study was done. She thought there should be an easement if the applicant is to use her drainage ditch. Mr. Kottage said the applicant did provide a drainage study. As Town Engineer, Mr. Kottage said he reviewed the study and believes it is correct, therefore there is no need for a further study. Regarding spring water impacting the flow rate through the site, the study allowed for a 25 year flood. The existing design for the drainage system proposed by the applicant was to exceed Town standards, and he has agreed to increase it to 18". Additionally, there is no need for a drainage ditch or easement.

Councilmember Colteaux, thought wording in Condition 12 should be changed to read...."capture, channeling and discharge" ... and there should be reference to the drainage plan. Mr. Sorensen noted that Condition 8 refers to the drainage plan. Colteaux said that Condition 8 and 12 should be cross referenced.

Devi Treewater asked about the spring water runoff the site. Mr. Yeakey said that water runs off the site now, he will just channel it.

Jack Deignan, 60 South Oak, said there was a soils report by Donnelly that shows three slide areas on the Yeakey property. Mr. Kottage stated the report in question is very general however the soil reports provided by the applicant was much more detailed.

Walt Tamley, 951 South Oak Avenue said he owned part of the easement that Mr. Yeakey is no claiming. Mr. Yeakey said First American Title did the title search and it is his understanding that roadway and utility easements are available to him.

Mr. Cecil said MMWD has not given approval yet to Mr. Yeakey. Mr. Roth said one of the conditions stated Mr. Yeakey can not move in until there is water.

Mr. Cecil asked how staff would enforce the conditions imposed on the applicant. Mr. Kottage said the applicant is willing to comply with the conditions and the neighbors would most likely let staff know if there have been violations.

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Johnathan Braun, 479 Scenic, was concerned about the potential growth impact with the addition of the water tank, adding this dwelling will be the closest to Mt. Badly. He asked that there be a condition stating this is for one dwelling only. He feels the excessive grading, the house and the color violate the R-1H requirements.

Polly Churner, 30 South Oak, and Mary Tamley, 951 South Oak, thought the house size would cause a detriment to the neighborhood.

Bill Allbright, 190 Oak Avenue, said the neighbors would be inconvenienced for a long period of time while this home is being built, adding the house was too massive for the area.

Dawn Whitermore wanted specifics on how the parking would work during road closure. Mr. Kottage noted the road will only be closed for a maximum of 5 days during the work hours and the applicant has indicated he will shuttle people back and from their cars to their homes.

Mr Cowperthwaite, 141 Oak Avenue, was concerned about the size of vehicles going up Oak and Chipman.

James Troop, 274 Oak Avenue, was concerned about the growth and quality of life but added the house is nice looking.

Mr. Sorensen spoke on behalf of his client, to respond to the questions brought up tonight. He said there have been five in depth slope stability studies done and there has been no evidence to refute the reports. In addition, condition #11 states the engineer will inspect and provide certification that the work is accomplished in a safe manner. Water and fire protection will be provided by MMWD. The drainage study concludes there will be no impact on the neighbors and in addition Mr. Yeakey is voluntarily increasing the size of the culvert. With regard to the design review of the dwelling, the house has been reduced 600 square feet and the house will only cover 5.4% of the lot, the Code allows for up to 40%. With regard to road stability, staff has developed many conditions to protect the road, including a requirement for a \$50,000 bond.

Councilmember Colteaux said that wording in number 12 only addresses the discharge and wording should say "capture, channeling and discharge". There should also be a cross reference to the drainage plan and a description. Condition 8 and 12 should be cross referenced because they address the same issues.

Councilmember Chignell concurred with the suggestion of Colteaux for condition number 12. He is requesting more clarity with regards to where the neighbors will park when the road is closed and asked about the concern of Mr. Tamley regarding the easements. Chignell was sympathetic to the neighbors concerns however as a Councilmember he is required to approve the application because the applicant has a right to build. He thought staff has gone to exhaustive measures to ensure the safety of the project and the applicant has been gracious in conforming to all the requirements. With regards to enforcement of the conditions, staff needs to be sensitive to enforcing the conditions and following up on any violations as quickly as possible by putting a stop work order if necessary. With these added comments, he reluctantly was in support of the application.

Councilmember Zaharoff said this application has caused her much anguish. She has been satisfied that the technical aspects have been worked out regarding the drainage and soils reports however her major concern is how this application falls into the R-1 H guidelines. The R-1H policy states that there should be minimal grading done on

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the property and low visual impact. This application violates the spirit of the R-1H and therefore she will sustain the appeal. With regard to color, she felt any gray would be inappropriate, and earth tones should be used. She did not want to set a precedent with this application for other R-1 H sites.

Councilmember Walsh was sympathetic with the neighbors, stating that there were many valid concerns. However this is a buildable site and the Town is required to approve a building on the site. Only 15% of the land is being used and the R-1H zoning states it can be up to 40%. Staff and the applicant have gone to exhaustive measures to ensure that the drainage concerns are addressed and problems eliminated. She felt the additional fire protection in the area, additional road paving and upgrading of the roadway will only be an overall benefit to the neighborhood. She was also in agreement with the colors chosen. Councilmember Walsh upheld the decision made by the Planning Commission.

Councilmember Colteaux wanted to ensure that the Town would have input on the location and design of the water tank when it is approved by MMWD. Mr. Kottage said we will have input and the tank will have to go through CEQA review.

Councilmember Colteaux had several questions regarding the conditions attached to the approval of this application. His comments are as follows:

Condition 1 and 7: seemed to have the same intent; if so, should be redrafted and combined and include a statement of who would be responsible. Mr. Kottage thought the intent of condition 1 was the basis of the application and condition 7 is the detailed information and how it relates to the occupancy.

Condition 3: wanted clarification of what fire retardent measures would be used, adding he did not want to have a material that is sprayed on.

Conditions 4 and 5: seemed like the same intent;

Condition 6: noted a wording change from ...."fires if required"... to ..... "fires as required"....

Conditions 8 and 12 was previously addressed.

Condition 13: wanted clarification on what is meant by "no further development". Does it refer to plant life? Mr. Kottage said the goal of this condition was to limit the growth of all building to the original application of 15% however, it also addresses the plant life on the site. Mr. Roth said the word "development" was meant to be a broad term in this sentence. Councilmember Colteaux said that there are two subjects addressed in this condition. Mr. Kottage suggested breaking the condition into two parts for clarity.

Condition 15: change "associate" to "associated".

Condition 18: would rather see \$50,000 cash on deposit for the road repair. He is suspect of bonds, adding they only lead to litigation. Additionally, language should be specific that the applicant will make all the changes. Mr. Roth said the applicant agrees to replace portions of the road and agrees to put up a \$50,000 bond, with an agreement that he will incur all costs over the bond amount if necessary. It is his understanding that Mr. Yeakey would not be willing to put up the \$50,000 cash, but would be willing to put up \$25,000. Mr. Kottage suggested \$25,000 in cash and \$25,000 in bonds. Councilmember Colteaux said a

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bond is worthless, but would consider \$25,000 in cash, and a commitment of another \$25,000 if it is depleted.

Condition 20: Should state that this applies to both Oak Avenue and South Oak Avenue and wording should include both drainage and pavement. John Kottage suggested wording as follows "The owner at all times when development activities are occurring at this site, shall maintain all roadways of Oak Avenue and South Oak Avenue pavement roadway and drainage ways and repair all other damaged area as directed ....." "Further, any actions or continuation of actions by the owner, which cause the above facilities degradation of the roadway, is considered to be sufficient grounds for stopping the entire project immediately."

Condition 24: Asked staff if the statement implies the width can be less than 14 feet. Mr. Kottage responded that there are portions of the roadway that cannot be 14 feet wide unless a retaining wall is put in.

Condition 28: Is the definition of the color plate specific enough?

Condition 30: There should be a clear definition of dark earth tone.

Condition 30 C: "darker" should be changed to "dark"

Mayor Sharp agreed that the colors used should be earth tone and although he is reluctant to support the application, is required to allow a house to be built on the site. His big concerns were related to geology and hydrology and he was willing to take the expertise of Herzog, Salem Howes and the Town Engineer. He would like specification of where spring water occurs in condition 12. With regards to a parking area during the road closure, there needs to be more details of how it is going to work. He is concerned about enforcement of the conditions but has faith in staff to address them. He feels the mitigations for approval are that the application is reducing the original size of the building, the ratio of developed area to lot size, and that landscaping will screen the dwelling. He added that there needed to be a statement of how frequently the geotechnical engineer shall inspect the site in Condition 11D.

Johnathan Braun, 479 Scenic, thought the conditions could be monitored by the Building Inspector frequently visiting the site.

Councilmember Chignell wanted to add that he was in favor of earth tones and agreed with the requirement of cash instead of a bond.

Mayor Sharp said there was a consensus that earth tones be used.

Mr. Roth said if there is a consensus on the conditions, they can be reworked based on the comments tonight, and the revisions presented at the next meeting. Also, the applicant should provide earth tone colors for the next meeting. The Town Council at this time shall move to close the public hearings and approve the application with any attached conditions.

Mr. Sorensen suggested giving staff the authority of choosing a suitable earth tone color. Mr. Kottage preferred that be done by Mr. Yeakey.

Mr. Roth wanted to get input from the applicant regarding the Council's recommendation of cash instead of a bond. Mr. Sorensen said Mr. Yeakey would be willing to put up \$25,000 in cash but not an additional \$25,000. Mr. Roth asked if

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they had considered a secondary LC for \$25,000. Mr. Yeakey said he would not be able to do that.

Councilmember Colteaux suggested that the color palate be larger than the one presented tonight to give the Council a clearer picture of what it will look like. Mr. Yeakey said the color is in the cement and was not sure he could have a masonry do this prior to Tuesday. Mr. Colteaux suggested a palate that was painted that would reflect the color.

M/S Colteaux, Chignell, denial of appeal of the Planning Commission for PP-9 - Robert M. Yeakey, 80 south Oak Avenue, A/P 7-241-50, preliminary plan review of a single family dwelling in an R-1H zone and AR-7, architectural plan review, and Resolution approval with the exception that the appeal be granted to color with specification for an earth tone color be submitted by applicant and approved by the Town Council at the next meeting. And further stipulation that the bonding required of the road repairs be changed to a cash deposit requirement of \$25,000 initially, and an additional \$25,000 obligation to arise upon the depletion of the original \$25,000 and subject to the redrafting of the conditions as discussed at tonight's meeting.

Ayes: Walsh, Chignell, Colteaux, Sharp  
Noes: Zaharoff

The special Town Council meeting was adjourned at 12:00 a.m. to the next regular meeting of November 22, 1988.

**BARBARA CHAMBERS  
ADMINISTRATIVE SECRETARY/TECHNICIAN**