

TOWN OF SAN ANSELMO
Minutes of the Town Council Meeting of August 23, 2005

Present: Cooper, Thornton, Breen, Kroot
Absent: Chignell

8:00 p.m.

- CALL TO ORDER.
- PLEDGE OF ALLEGIANCE
- ANNOUNCE ACTION TAKEN, IF ANY, IN CLOSED SESSION

Mayor Breen announced that there was no closed session held.

- OPEN TIME FOR PUBLIC EXPRESSION.

Louise Mathews, Foothill Road, asked that an itemized list of all litigation expenses for the Town be made available to the public.

Bob Snyder, Plumas Avenue, asked for better signage at blue accessible parking spaces, specifically targeting the striped area next to each space.

Ada Fitzsimmons, Woodland Avenue, expressed her concern about the loading zone area in front of Comforts. There should be a sign marking the zone. She believes that the Town should not pay the employees' pensions if they are already paying into Social Security.

Joshua Zwitke, Prospect Avenue, felt that a public venue, such as Ford Greene's sign, is a necessary means of sharing information.

- COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS, QUESTIONS AND COMMENTS TO STAFF; STAFF MISCELLANEOUS ITEMS.

There were no requests for future agenda items, questions or comments to or from Staff.

1. CONSENT AGENDA: ITEMS ON THE CONSENT AGENDA MAY BE REMOVED AND DISCUSSED SEPARATELY. OTHERWISE, ALL THE ITEMS MAY BE APPROVED WITH ONE ACTION.

- (a) Approve minutes: August 9, 2005.
- (b) Acknowledge and file warrant nos. 52225 – 52470 in the amount of \$1,198,515.66 issued during the month of July, 2005.
- (c) 790-800 Sir Francis Drake Boulevard and 2, 4, 6 and 8 Loma Robles:
 - a) Reconsideration and review of August 24, 2004 Town Council grant of appeal of Planning Commission approval of design review, lot merger, and lot line adjustment to develop a 9,500 square foot commercial building and exterior renovation of an existing building located at 790-800 Sir Francis Drake Boulevard, APN Nos. 006-061-06, 006-091-34, and 006-091-35, which are in the C-L zoning district.
Applicants: Fredric C. Divine Associates Architects for G. Koblick and 790 Sir Francis Drake LLC Coby Friedman. Appellant: Jonathan Braun, PO Box 627, SA.
 - b) Planning Commission recommendation of approval of : Rezoning from R-1, R-3 and C-L to PPD/SPD, use permit and design review to consider 4 residential dwelling units on .58+ acres at 2, 4, 6 and 8 Loma Robles, APN Nos. 006-091-02, 006-091-34, 006-091-35, and 006-091-62. Applicant: Fredric C. Divine Associates Architects for Loma Robles LLC Coby Friedman. **CONTINUED TO THE MEETING OF SEPTEMBER 13, 2005**

Item (a) was removed from the consent agenda.

M/s, Kroot/Thornton, to approve items (b) and (c) of the consent agenda. Ayes: All. Absent: Chignell.

John Newell, San Anselmo, wanted to point out three points that were not specifically identified in the written minutes regarding Ford Greene's sign. He felt that granting Ford Greene special treatment would violate the free speech rights of others in town, that the sign as currently

configured is not legal and does not meet acceptable aesthetics standards.

Louise Mathews, Foothill Road, said the minutes did not specifically state her comments regarding the ordinance language that would allow as many non-commercial signs that you want on your property but the total area of those signs could not exceed six feet.

Ford Greene, 711 Sir Francis Drake, said that the minutes did not specifically state his reference to the written materials submitted to Council with respect to the August 9th hearing which include written disclosure of town ordinances and constitutional issues impacted by that, the appendices of the press coverage, signs that were hoisted, inventory of sign ordinance violations routinely not enforced, appendices of litigation documents, letters and emails in support and the request with exhibits to disqualify Paul Chignell from voting. Also missing were specific comments from various members of the audience in support of the sign variance.

M/s, Cooper/Thornton, to approve item (a) of the consent agenda with the addition of comments presented in the minutes of this meeting. Ayes: All. Absent: Chignell.

2. CONSIDER REQUEST FOR INSTALLATION OF TWO-WAY STOP SIGN ON MARIPOSA AVENUE AT THE INTERSECTION WITH RICHMOND ROAD.

Public Works Director, Rabi Elias, presented the staff report. He said this item was originally presented in May of 2005 as a request for an all stop intersection at Mariposa and Richmond. Review at that time did not require an all stop intersection so it was recommended to put one stop sign only on Richmond. Council asked for review after sign installation. After review the warrants are not present but there is an inherent hazard present. Staff recommended the installation of additional stop signs. Council may override the warrant requirements at their discretion.

Mary Ann Scarlett, Traffic and Safety Coordinator for St. Anselms School, expressed the need for an all stop intersection at Mariposa and Richmond giving two examples of near collisions which are a common observance every day near the school. She fears that children's lives are at risk.

Sara Chapell, Mariposa Avenue, said she has not observed any of these issues that have been raised and said no accidents have occurred in this area. She felt the need to place a stop sign in front of her home is unnecessary and will cause undue hardship on her quality of living.

Public Works Director Elias said the Traffic Safety Committee reviewed the situation and determined that there is a need for at least one additional stop sign; however, leaving one side without a stop sign can potentially create confusion and makes the intersection less safe than if it were a 3-way stop. He noted that St. Anselms does not participate in the Safe Routes To Schools Program.

Police Chief Maynard said there was one accident at the location in 2001 where a single vehicle backed into a fire hydrant. No other accidents have been reported at that location. He said the Traffic Safety Committee denied the request last time due to the fact that it does not meet the warrants. Nothing has changed since that denial.

Louise Mathews, Foothill Road, said that since the intersection is offset she asked how far back the sign would be placed. She noticed the existing crosswalk from the Seminary side to the St. Anselms side is placed in the driveway of St. Anselms and felt this was a hazard. She suggested establishing no parking on the ends of the streets to avoid congestion when dropping off children to school. She said it doesn't meet the criteria necessary to warrant additional stop signs and perhaps other measures such as dots would be more appropriate.

Doug Kelly, Sunview, said there is a sign in Corte Madera that says "traffic from right does not stop" and suggested consideration of the same for this street.

Valerie Casalnuovo, Parent/Teacher President, said she has been stationed at that area working consecutive Fridays watching out for the children's safety and has observed many hazards and concerning conditions. She doesn't want to wait for an accident to happen to take action. She also said the driveway where the crosswalk exists is not a heavily traversed driveway.

Breen suggested that St. Anselms look into becoming involved in the Safe Routes To Schools Program.

Kroot felt there is a need to take a look at safer alternatives, such as relocating where the kids can be dropped off, but maybe not as extreme as installing a 3-way stop.

Cooper thought that a sign placed heading east on Mariposa is a good idea, but did not think a sign heading west was necessary. He agreed that the school should look into the Safe Routes to Schools Program.

Thornton was in support of a 3 way stop because she believed it would slow people down and create a safer intersection. She also agreed that the school should look into the Safe Routes to Schools Program.

M/s, Kroot/Thornton, to continue to the September 27th meeting with the intent of reporting back on the consensus of the parent/teacher association, Supervisor Brown, Marin County Transit Authority and the Safe Routes to Schools Program. Ayes: All. Absent: Chignell.

3. APPROVE MEASURE G CONTRIBUTIONS TO DRAINAGE PROJECT AT 41 EL CERRITO AVENUE.

Public Works Director Elias said this project is an expensive project but a good one for Measure G monies as it is a long-term solution to some pressing drainage issues that have to be fixed. The quote is \$750 above the original quote and reflects the necessary expenses to remove a shed that does not meet standards. He said there is \$50,000 in the Measure G Fund and this project is the first expenditure of this fiscal year.

Victoria Shaw, 41 El Cerrito Avenue, thanked Public Works Director Elias and Town Attorney Hadden Roth for their help. She thanked the Council in advance for their support.

Cooper believed he lived within 500 feet of the property and recused himself from further review.

M/s, Kroot/Thornton, to approve Measure G contribution for the project at 41 El Cerrito Avenue for 50% of the project expense not to exceed \$12,135. Ayes: All. Absent: Chignell. Abstain: Cooper.

4. 711 SIR FRANCIS DRAKE BLVD:

- a) Approve Resolution 3738 upholding the appeal of Planning Commission approval of size, height and changeable copy sign variances (after the fact) for a 101 square foot sign located on the west facing building wall at 711 Sir Francis Drake Blvd, APN 006-083-08. Applicant: Ford Greene, 711 Sir Francis Drake Blvd. Appellants: John Newell, PO Box 38. Dean Ongaro, 243 San Anselmo Avenue.
- b) Approve extension of time for enforcement action on sign at 711 Sir Francis Drake Blvd. for an additional 34 days to October 11, 2005 to allow time to work on a compromise.

Planning Director, Lisa Wight, said she wanted to correct that the Town Council granted the appeal on August 9th, thereby overturning the Planning Commission approval. Also on the attached resolution at "whereas..." it should read that the Town Council granted the appeal.

Louise Mathews, Foothill Road, asked if the sign ordinance being used to govern this resolution is the one not yet approved. Town Attorney Roth said it is governed by the current ordinance in place. She said she felt the scheduling of events was done deliberately in response to Ford Greene's sign and that the Planning Commission is the decision making body but the Council is making a decision regarding an action that really is based upon the preservation of freedom of speech.

Val Schaaf said he is opposed to the adoption of the resolution. He felt the sign ordinance needs a greater emphasis on free speech vs. commercial speech.

Ford Greene said all of his previous objections submitted should be resubmitted here again, and in addition not just the ones submitted on August 9th, 2005 but all objections rendered.

Evelyn Schaaf said that infringing on freedom of speech is a mistake. She said if people want to argue in favor of the war, president or any other matter they also have the ability to erect their own sign. She felt this is a way to express opinions for both sides of a debate and should not be told how large or high their signs should be.

Roberta Robinson, Crooked, said the issue is not freedom of speech but rather the resolution of the Council to uphold the appeal that was filed.

Mike Hazel, Greenfield, said the sign ordinance has been developed by the Planning Commission over the last 40+ years. Sign ordinance needs to be enforced and he supported the resolution.

Dean Ongaro said the Council voted to uphold the appeal because the Planning Commission made a mistake in not doing their due diligence and did not make the findings. He asked the Council to give them guidance to prevent this from happening in the future.

M/s, Thornton/Cooper, to approve adoption of Resolution 3738, item (a). Ayes: All. Absent: Chignell.

Cooper wanted to reiterate that this is not an issue of free speech. Mr. Greene, as well as anyone else in San Anselmo, can put up a sign, say anything they want to on it, as long as it complies with the Town Ordinance. Kroot said Mr. Greene's sign may be more impactful and understandable when it complies with the Town Ordinance.

Regarding item (b), Town Administrator Stutsman presented the staff report. She said at the last meeting Council directed Town Attorney Roth, Vice Mayor Thornton and herself to meet with Mr. Greene to discuss a smaller sign. It was agreed that Mr. Greene would alter his sign utilizing only two rows of signage, compressing the message, to see what that would look like. At that meeting an extension of compliance to October 11, 2005 was discussed and is now in front of the Council for consideration.

Ford Greene said that he did not suggest the extension but rather it came from the Town but that the date agreed upon of October 11th is what he would like the Town to approve.

Town Administrator Stutsman said it was represented in the meeting that the idea of an extension to October 11th, or any other date the Town deemed appropriate, would have to be brought to the Town Council for approval. Town Attorney Roth said the extension was discussed as a means to allow more time to experiment condensing the text of the sign then coming back together for further review. Town Administrator Stutsman said the intent of the extension is to allow enough time to reach a conclusion.

Ford Greene said if an agreement is made prior to October 11th he would join in bringing it back to the Council, but does not agree to an earlier extension deadline.

Breen said a report back to the Council on the progress will come back to the Council on September 13th, 2005.

Louise Mathews, Foothill Road, asked if there will be a timing problem between Greene's sign and the new ordinance if it comes forward at the next Planning Commission meeting. Town Administrator Stutsman said the sign ordinance takes two readings at the Council level and doesn't go into effect for 30 days. Greene's sign will be under the existing ordinance.

Mike Hazel asked why discussions are taking place since the sign is in violation with the ordinance.

John Newell said he applauds the decision of the Council. The Town has been put to a lot of expense defending itself and is still under threat of litigation. The longer Mr. Greene's sign stays up the great his right to keep it. The sign will be a disadvantage to other candidates in the upcoming election.

Tom Fallon, Plumas, said that as a candidate in the upcoming election he doesn't feel the sign gives Greene an unfair advantage. He is proud to be in a Town that supports free speech.

Doug Kelly said he opposes the extension. Everyone should follow the same law.

Bill Boyle, 145 DeBurgh, said the law is the law. We should nip this in the bud and take the sign down.

George Bennett, Sleepy Hollow, said the Council should stand firm on their decision.

Dean Ongaro said council did the right thing, but he is concerned about discussions after the appeal has been denied.

Ford Greene, Sir Francis Drake Blvd., said the sign antagonists don't live in San Anselmo. There is no enforcement of illegal signs in San Anselmo; his enforcement was politically motivated.

Joshua Zwitke, San Anselmo, emphasized the importance of free speech.

Roberta Robertson, Crooked Avenue, said billboards are larger. This is a sign under the ordinance.

Kroot asked what are the discussions are about. Typically, if someone applies for sign It goes to the Planning Commission. Town Attorney Roth said Mr. Greene is being very cooperative with the group. We are trying to see if we can agree on a sign within the confines of the ordinance. If there is not a meeting of the minds, then staff will come back to Council and initiate a public nuisance hearing.

Cooper said Mr. Greene is cooperating and staff is comfortable with the process. It should be allowed to continue. If a decision is reached earlier than October 11 the Council can act.

M/s, Cooper/Thornton, to approve the extension of the date for enforcement action for the sign at 711 Sir Francis Drake Blvd to October 11, 2005, to allow time for discussion. Ayes: All. Absent: Chignell.

5. APPROVE REVISED APPLICATION OF THE GENERAL PURPOSE MUNICIPAL SERVICES TAX FOR ENTITIES CLASSIFIED ON THE COUNTY ASSESSOR'S TAX ROLL AS "COMMERCIAL, WITH LIVING UNITS," CALCULATING THE TAX SOLELY ON A PER SQUARE FEET BASIS.

Finance and Administrative Services Director Pendoley presented the staff report. There is increased interest in how taxes are collected this year. In response, staff looked at the classification for different properties that pay the municipal services tax. Staff found that the ordinance has been applied consistently and is in accordance with the ordinance. However, issues of equity could be raised by a group of 42 properties classified as commercial with living units. They have been assessed both the living unit and the per square foot commercial tax. Given the language of the ordinance, it is arguable that it is a reasonable interpretation. Staff recommends that property that has both commercial and residential designation be charged as a commercial entity. The fiscal impact of the change would be about \$8400 annually.

Cooper noted that this is the same allocation that we are talking about for the Special Municipal Services Tax in the fall, which would multiply the problem. He reviewed the language and it does have elements of interpretation in both directions. It is equitable to do as staff proposes and utilize the single category, commercial.

Louise Mathews, Foothill Road, said the paramedic tax uses the same language. Will this be corrected as well?

M/s, Kroot/Thornton, to approve a revised application of the General Purpose Municipal Services Tax effective July 1, 2005 for entities classified on the County Assessor's tax roll as "commercial, with living units," calculating the tax solely on a per square foot basis. Ayes: All. Absent: Chignell.

6. 2005-2006 BUDGET:
a) Approve Resolution No. 3739 adopting the 2005-06 Budget.

- b) Approve Resolution No. 3740 establishing the appropriations limit for fiscal year 2005-06.

Fiscal and Administrative Services Director Pendoley said the proposed budget and work plan were presented to the council at the July 26th meeting. Staff was asked to prepare a four year summary of actions taken to reduce expenditures and increase revenues.

Louise Mathews, Foothill Road, said she is concerned about how much information has been pulled out of the document.

M/s, Thornton/Cooper, to approve Resolution 3739, adopting the 2005-06 Budget and Work plan. Ayes: All. Absent: Chignell.

Regarding Item (b), the appropriations limit worksheet is required by the State to be done each year. We have a leeway of \$66,000

Louise Mathews, Foothill Road, said Sleepy Hollow should claim their own appropriations limit. She does not believe that Town practice follows the intent of the Gann limit. She said staff should review with the auditors.

Pendoley said the auditor review the Gann calculation every year.

M/s, to approve Resolution No. 3740, establishing the appropriation limit for 2005-06. Ayes: All. Absent Chignell.

7. APPEAL OF PLANNING COMMISSION'S APPROVAL OF 1) HILLSIDE DESIGN REVIEW OF A NEW 3,007 + SQUARE FOOT, THREE STORY SINGLE FAMILY DWELLING WITH UNCOVERED DECK TERRACES AND A 426+ SQUARE FOOT GARAGE; 2) SETBACK VARIANCES FOR A) A RETAINING WALL APPROXIMATELY 140' IN LENGTH AND UP TO 6.5' ABOVE GRADE TO BE CONSTRUCTED OFF THE PROPERTY AND IN THE SCENIC RIGHT OF WAY BELOW AND SETBACK FROM THE EXISTING ROAD; AND B) A GATED DRIVEWAY; AND 3) HEIGHT VARIANCES FOR THREE CHIMNEYS TO BE 2.94' ABOVE THE CODE MAXIMUM HEIGHT. 186 SCENIC AVENUE, APN 7-063-11 (ACROSS FROM NOS. 179 AND 203 SCENIC AVENUE) APPLICANTS: JOSEF F. AND CORINNE A. KREMLACECK, 34 LOS CEDROS DRIVE, NOVATO. APPELLANTS: JONATHAN BRAUN, PO BOX 627, SAN ANSELMO. THERESA JOHNSON, 130 SCENIC AVENUE.

Planning Director Wight presented the staff report. The project was continued for applicants to review conformance to the General Plan with respect to building scale, safe passage on Scenic Avenue, the restriction of use on the public right of way, and landscape screening. She noted that the Town Attorney had advised that property that abuts a public street is entitled to reasonable and convenience access to that street; however, no specific location can be demanded. Should the Council determine that the use of the right of way for the applicant's private driveway should only be allowed if the applicant pays to widen Scenic Avenue, then the Town Engineer would recommend that work be done at the curve. Changes made to the plans were removal of the gate and posts on the driveway, use of wrought iron railings on the terraces and additional landscaping for screening. Whether the Council upholds or denies the appeal, staff recommends that conditions be placed in a resolution and returned to Council on September 13.

Thornton asked if the roadway would be 12 or 14 feet. Wight said the driveway that goes to 186 Scenic can be just 12 feet if it just serves one house. If it services the house at 190 it would need to be 14 feet. It could also be 12 feet wide if there is a turnout at the end of Scenic.

Jonathan Braun, Appellant, said his co-Appellant Terry Johnson is not able to be here. In a letter dated July 21, the applicants' attorney attempted to criticize the appeal, saying it contains false numbers. The dwelling, garage, terraces, parking and entry structure total 4,800 square feet. The applicant says the project will have no visual impact. Neighbors should be asked if they agreed. The building should be designed to minimize visual impact. The structure is at the maximum allowed by code, but does not mitigate visual mass. He objects to using Scenic Avenue for access as it compromises the public right of way. This is a granting of a generous amount of public resources to private individuals. The garage is at the furthest point from the

street and there is no technical reason for it to be there. The impact could be reduced by redesigning the garage and placing it closer to the street. He submitted to the Council a photo of the hairpin turn at the project site.

Dave Jochum, Architect, said this is just design review. The only variance is to for the retaining wall to support Scenic Avenue, which was requested by the Public Works Director. Widening 70 feet of Scenic is not a trade off for having a 12 foot wide driveway. They were just helping the neighbor and he is fine with not having that access.

The new design downplays some of the more dramatic elements of the design. The design conforms with every zoning restriction that the lot carries. Landscape screening has been added, although the Fire Department prefers less foliage. They looked at drainage of the site, the scale and intensity of the house and conformance to the existing character of the area. He tries to avoid monster houses, but the intent is not to avoid improving the neighborhood. Reasonable values and aesthetics are not intended to prevent building of new homes. It's hard to say what the existing character of Scenic is. Very few homes were done by design professional. These homes were originally summer cottages that have been added onto to get to their current state. He passed around a photo album containing pictures of the neighborhood. It is an eclectic neighborhood with no true styles. If they moved the entrance to the house to the south we could provide a solid wall of screening. They have never met Ms. Johnson, nor has she been to any of the meetings. The house is a modest 3 bedroom, 2 bath house with 9 foot ceilings. It steps down the hillside and doesn't block any views. He passed out information for Council to review. The turn is 24 feet wide and there is plenty of room for two cars to pass. They are widening to 20 feet up the hill and that is more than enough. This is the house the Kremlacek's want to build. There are a host of reasons why they think it is a great design. It is not out of character or scale with the neighborhood. They are contributing significantly to the right of way.

Brian Clark, 190 Scenic, he views the house from the east boundary and he is fine with the design. He supports the design.

Gail Kennedy said she was notified by a real estate agent about this project. She is concerned about the drainage. They paid a small fortune for their home and they are concerned about the safety of the neighborhood due to drainage problem, as well as earth movement and flooding.

Louise Mathews, Foothill Road, said two of the people concerned live on Foothill Road. While they have no concern with project, they are concerned with the construction management plan. They don't want the road blocked and folks on Elm Avenue are concerned that the parking areas would change during construction. Work will be limited to weekdays and non holidays. What about weekends? There should be no construction on weekends. She wouldn't want any preconstruction setup until 8 a.m. and work should end at 4:30 p.m. She would like the issue of construction management to come back because there are going to be three homes.

David Trainer 119 Scenic, said he is intrigued by the statement from the architect that the neighborhood has no style.

Ed Poser, 19 Plumas, said he was never noticed about the project. He feels embarrassed to have such a huge house next to his little one.

Zach Coffman, 461 Scenic, representing his parents, said he has lived on Scenic for 25 years. This house has no connection to what the neighborhood is about. The extensive rock work and design does not fit with the eclectic mix of Scenic Avenue.

Tom Fallon 15 Plumas, said the drainage has been a problem since the work has been done on grading last winter. Hopefully, we can work with issues of runoff. He would like the water to get down to Scenic so it is not running through their properties.

Kroot asked Public Works Director Elias for his comments of earth movements and drainage. Elias said the main drainage by the house is okay. The design will take care of it. The other drainage is because its flat land now, but once the house is completed, the situation will be addressed and drainage put in at that time. The earth movement there is just some loose dirt.

Thornton asked if drainage is handled outside of design review. Elias said a civil engineer would design the drainage

Breen said the architecture is wonderful but he is not sure this is the spot for it.

Kroot said applicant has two issues, the visible slope and the small lot. The house could be twisted one way or the other, but it wouldn't make it less visible. We may end up getting more houses like this, which stepping down the hillside. Shingle and wood siding is great but state law is going to make it hard to do that in the hills.

Thornton asked what the layout of the floor plan was. Jochum referred to the drawings on the board.

Kroot said removing the gate simplified the design and the increased landscaping is nice but he doesn't know if the Fire Department will approve that. The applicants do have a right to build on their property. A construction management plan is needed; the site does have a good area to put construction materials and vehicles. On design, regardless of what is designed it is going to be a step up home with garage underneath. He is supportive of the project as it has been modified this evening.

Thornton noted that with darker colors the house would it blend in more. It is within our codes and not asking for variance.

Cooper said he feels the house is intrusive building. Darker siding would be better to reduce the visual impact.

Jonathan Braun, appellant, said the General Plan clearly stipulates that the council has the ability to reduce homes if they are too big. The Council has it within its discretion to require redesign.

Jochum expressed concern that the meeting has been opened to the public again. The tables from the Assessor's office don't reflect a lot of illegal construction. You could massage this design but you're not going to make an iota of difference to the visibility. It is going to be visible no matter what. He could angle the roof and it is not going to change the visibility of the house from the various angles.

M/s, Kroot/Breen, to deny the appeal, finding that the house is functionally and aesthetically compatible with General Plan, provides from protection from noise, will not create a traffic hazard or endanger the personal health and safety of persons in surrounding areas, the screening is good, the architectural features and color are good, and the result is low visual profile. Due to the special circumstances of the steep slope, granting of variance will not be inconsistent with the intent of the General Plan.

Thornton asked about the width of the driveway and Fire Department approval. Town Attorney Roth said if they are building the drive on the public right of way that should the Town need it in the future, an encroachment permit should be required. They have no vested right to remain there.

Vote on the motion by roll call: Ayes: Breen, Kroot. Noes: Thornton, Cooper. Absent: Chignell. No decision.

M/s, Cooper / Kroot to continue this item to next meeting for hearing by the full Council. Ayes: All. Absent: Chignell.

8. APPEAL OF PLANNING COMMISSION'S APPROVAL OF VARIANCE TO PERMIT THREE STORIES ON A LOT WHERE A MAXIMUM OF TWO STORIES IS PERMITTED AND DESIGN REVIEW OF THE SECOND AND THIRD STORY ADDITIONS, LOCATED WITHIN THE R-1 ZONING DISTRICT. 130 MADRONE AVENUE, AP# 007-114-16, APPLICANTS: BOB SCHULZ AND LINDA JENSEN; APPELLANT: KATHRYN GANT BRADLY, 24 DURHAM ROAD.

The Appellant asked to continue this item to the next meeting to the next meeting. At 11:38 p.m. she feels at a disadvantage.

Planning Director Wight presented the staff report.

Kathryn Gant, Appellant, said she finds the staff report confusing with respect to stories.

She is very upset and worried about retaliation from neighbors. Precedent is important and there have been other homes that have received denials. There is plenty of room on this lot; they want to put a total of five cars on the property. She is in favor of protecting trees. The applicants want to put in a pool. There is no guarantee that everyone can have a garage. Decisions are being made that are arbitrary. She has photos to show that other houses have to conform. She is worried about the fire hazard with all those cars, in addition to being surrounded by trees. People have placed their trust in the process. She asked that her photos be placed in the record.

James Josephs, General Contractor, 231 Laurel Avenue, brought some illustrations. The family wants to increase the main floor to accommodate parents staying there, with a master suite upstairs. The project would not require design review if it weren't for the 450 square footage limit. Older houses were built with the first few feet above grade because of flooding. They first thought they would dig this out and put cars underneath the house, but that is in the root zone of the heritage trees, which led to this proposal. By having three stories it would not change the size or shape of the structure. The special circumstances are the heritage oaks.

Edward Farey, Madrone Avenue, said it is very important that those trees be protected, They are selling their home and Mrs. Bradley felt obligated to let our buyers know this action was going on next door, He is amazed at her mentioning retaliation. All the neighbors have approved it.

Bob Schulz, applicant, said that Cities and Towns need people to challenge what is inappropriate but he doesn't feel this is inappropriate. The size of the structure is the same and they are able to save the trees. In no way should Kathryn feel any sort of retaliation, we don't even know her.

Kathryn Gant, Appellant, said this matter should have been continued.

Kroot said the Planning Commission made right decision. He went through the same thought process and then saw the trees and realized they would be damaged if the digging occurred. He doesn't think there will be any impact on neighbors. He has received letters from 10 or so neighbors in support of project.

M/s, Kroot/Thornton, to deny the appeal and grant variance and design review on findings of special circumstance of grading on the site with no negative impact of light air or privacy. Ayes: All; Absent: Chignell.

9. ADJOURN.

Meeting adjourned at 12:20 a.m.

Respectfully submitted,

Denise Phillips
Senior Police Administrative Assistant
and
Debra Stutsman
Town Administrator