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Appeal of Controversial Building Permit

By Cathy Tyson

Although the permit was unanimously denied after five public hearings from the Planning Commission, the controversial Holt house matter is back before the City Council. At issue is the two-story, roughly 2,800 square foot house that former Planning Commissioner Dick Holt wants to build on the corner of Sessions Road and Sierra Vista Way. From the beginning the neighbors have not been in favor of the contentious project on a very steep narrow lot bisected by Sessions Road.

The City Council has a few options: approve, conditionally approve, or deny one or both applications - the Hillside Development Permit and Variance.

At the November 10th hearing, public testimony was heard along with arguments from attorneys for both sides, in addition the City Attorney provided input, and the Planning and Building Services Manager, Niroop Srivatsa made an interesting determination. "Its not very often that Staff differs with the Planning Commission...after review of the revised proposal, Staff believes it can make the finding for both the Hillside Development Permit and Variance."

City Attorney Mala Subramanian noted a couple of issues of concern - whether the parcel in question is a legal lot and if easements encumber the property. According to Subramanian the legal-ness of the lot is settled, it was legally created in 1954. With regard to the easement issue, "It is up to the court to determine developability of the lot."

David Bowie, attorney for Holt, completely agrees, "The city does not get into the business of enforcement of private certitudes."

"A legal lot is not necessarily a buildable lot," said Les Hausrath, attorney for the neighbors. "The entire lot is encumbered by easement. Recorded documents show the easement runs the width of the map. The documentation is quite clear of the existence of the easement. This lot was developed as a gateway for upper lots; it was never designed to be a developable lot."

The neighbors concur. Ken Sargent said, "We are unanimously opposed to this house on this lot." Maeve Pessis of the Lafayette Homeowners Council said, "Our board continues to have concerns." Former neighbor Carol Heymeyer stated the, "Easement runs over, under, around and through the property."

Discussions are scheduled to continue at the December 8th City Council meeting.

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