



Agenda
Planning Commission Meeting
7:00 P.M. on Tuesday, April 8, 2008
Clayton Community Library Meeting Room
6125 Clayton Road, Clayton

CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Administrative

- 1A. Review of agenda items.
- 1B. Commissioner Hartley to report at the April 15, 2008 City Council meeting.

Public Comment

Approval of Minutes

- 2. Approval of minutes from the regular meeting of March 25, 2008.

Public Hearings

- 3A. **CDD 04-07, Large Family Day Care Permit, Shelly Alves**, 6015 Golden Eagle Way, APN 118-630-001. Review of project compliance with Conditions of Approval 1-6 as listed on the City Council resolution, Resolution No. 42-2007, for the appeal of Planning Commission's decision to approve a large family day care permit.
Proposed Action: Receive staff's report as well as applicant and public comments. Then, provide direction, if necessary, for corrective action.
- 3B. **ENV 01-08, Environmental Review, Rivulet Mixed Use Project, Uzoma Nwakuche**, 1005 and 1007 Oak Street (APNs 119-050-009 and 119-050-034). A study session to discuss the status of the environmental review of the project. *Continued from the regular meeting of March 25, 2008.*
Proposed Action: Receive and comment on report from staff and applicant regarding architecture proposed for southeastern elevation of project.
- 3C. **DP 01-08, Development Plan, Rivulet Mixed Use Project, Uzoma Nwakuche**, 1005 and 1007 Oak Street (APNs 119-050-009 and 119-050-034). A request for approval of a development plan to allow the construction of a two-story mixed-use commercial/residential building with approximately 7,000 square feet of commercial retail on the first floor and up to seven residential units on the second floor. *Continued from the regular meeting of March 25, 2008.*
Proposed Action: Receive and comment on report from staff and applicant regarding architecture proposed for southeastern elevation of project.

Agenda
Planning Commission Meeting
Tuesday, April 8, 2008
Page 2

Old Business

4. None

New Business

5. None

Communications

- 6A. Staff
6B. Commission

Adjournment

The next meeting of the Planning Commission is scheduled for **Tuesday, April 29, 2008.**

Most Planning Commission decisions are appealable to the City Council within ten (10) calendar days of the decision. Please contact Community Development Department staff for further information immediately following the decision. If the decision is appealed, the City Council will hold a public hearing and make a final decision. If you challenge a final decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing(s), either in oral testimony at the hearing(s) or in written correspondence delivered to the Community Development Department at or prior to the public hearing(s). Further, any court challenge must be made within 90 days of the final decision on the noticed matter. If you have a physical impairment that requires special accommodations to participate, please contact the Community Development Department at least 72 hours in advance of the meeting at 925-673-7340.

An affirmative vote of the Planning Commission is required for approval. A tie vote (e.g., 2-2) is considered a denial. Therefore, applicants may wish to request a continuance to a later Commission meeting if only four Planning Commissioners are present.

Minutes
City of Clayton Planning Commission Special Meeting
Tuesday, March 25, 2008

Call to Order

Chair Haydon called the meeting to order at 7:00 p.m. at the Library Meeting Room, Clayton Community Library, 6125 Clayton Road, Clayton.

Present: Chair Keith Haydon, Vice Chair Tuija Catalano, Commissioner Bob Armstrong, Commissioner Joe Odrzywolski

Absent: Commissioner Ed Hartley

Staff: Interim Community Development Director David Woltering
Assistant Planner Milan Sikela, Jr.

Administrative

1A. Review of agenda items.

1B. Commissioner Armstrong to report at the April 1, 2008 City Council meeting..

Public Comment

None.

Approval of Minutes

2. Approval of minutes from the regular meeting of March 11, 2008.

Chair Haydon moved and Commissioner Odrzywolski seconded a motion to approve the minutes from the regular meeting of March 11, 2008, as amended. The motion passed 4-0.

Public Hearings

3A. **GPA 01-07, Town Center General Plan Update, City of Clayton.** An amendment of the *General Plan* Land Use Element, Circulation Element, and Community Design Element to make additions, revisions, and deletions of various goals, policies, objectives, standards, permitted uses, guidelines, text, and figures regarding development in the Town Center as well as other miscellaneous minor revisions and updates. *Continued from the regular meeting of March 11, 2008.*

3B. **SPA 01-07, Town Center Specific Plan Update, City of Clayton.** An amendment of the *Town Center Specific Plan* including, but not limited to, Chapters 1 (Introduction), 3 (Municipal Services), 5 (Circulation), and 6 (Financial Implementation) to make additions, revisions, and deletions of various goals, policies, objectives, standards, permitted uses, guidelines, text, and figures. *Continued from the regular meeting of March 11, 2008.*

The continued public hearings were re-opened. Assistant Planner Sikela indicated that staff was recommending a tabling of GPA 01-07 and SPA 01-07 to an undetermined future meeting date and that the public hearings would be re-noticed accordingly.

Commissioner Armstrong moved and Commissioner Odrzywolski seconded a motion to table the public hearings for GPA 01-07 and SPA 01-07 to an undetermined future meeting date. The motion passed 4-0.

- 3C. **ENV 01-08, Environmental Review, Rivulet Mixed Use Project, Uzoma Nwakuche**, 1005 and 1007 Oak Street (APNs 119-050-009 and 119-050-034). A study session to discuss the status of the environmental review of the project.
- 3D. **DP 01-08, Development Plan, Rivulet Mixed Use Project, Uzoma Nwakuche**, 1005 and 1007 Oak Street (APNs 119-050-009 and 119-050-034). A request for approval of a development plan to allow the construction of a two-story mixed-use commercial/residential building with approximately 7,000 square feet of commercial retail on the first floor and up to seven residential units on the second floor. *Continued from the regular meeting of March 11, 2008.*

The study session for ENV 01-08 and the public hearing for DP 01-08 were opened. Assistant Planner Sikela presented the staff report. Director Woltering indicated that staff had been working on project compliance with City parking standards.

Bob Staehle, the representative of the applicant, indicated the following:

- The purpose of tonight's meeting is, in part, a preliminary review of the site plan.
- Creek setbacks have been adjusted to address anticipated direction from the Department of Fish and Game (DFG).
- We have been working with staff to resolve the parking issues.
- The elimination of angled parking in favor of parallel parking is being proposed to achieve the desired creek setbacks.
- We want to improve Mitchell Creek; DFG is aware of this.
- We will be reviewing the adjusted site plan with DFG.

Commission questions included:

- Will you be reinforcing the creek bank? *Mr. Staehle indicated that the creek bank would not be altered since this would require a streambed alteration agreement; However, he indicated that the creek setback would be stabilized and enhanced with plantings.*
- Will the pad be wrapped around the southwestern corner of the project near the creek bank for ingress and egress purposes? *Mr. Staehle indicated that, yes, a pad would be wrapped around but we are attempting to retain and open and natural look in that area of the project.*
- Does the 9,400 square-foot footprint include sidewalk paving and ingress paving? *Mr. Staehle answered, no, it does not. Landscaping will be installed and paving removed on the High Street side of the project with the intent of keeping the project under 10,000 square feet.*
- Does ingress/egress area along the creek require a railing? *Mr. Staehle responded that he did not know since the project is currently proposed to be 10 feet from the top of bank.*
- What we are seeing now appears to be well on its way to the kind of footprint we would like to see.
- Moving the footprint away from the creek is a good thing.

- Where will the elevator be located? *We are still proposing to keep the elevator at the north end of the project since the handicapped parking will be located nearby and the north end is where the main access to the residential units will be located.*
- The ingress/egress door on the creek side serves the staircase? *Mr. Staehle indicated, yes it does and we have moved the ingress/egress door closer to High Street to reduce the impervious surface area.*
- What is the minimum pedestrian distance you are showing on the plans on the Oak Street side? *Mr. Staehle indicated that it was 5 feet at the south end of the overhang and 4 feet, 6 inches at the north end of the overhang.*
- The minimum pedestrian width shown on the plans is too narrow.
- Is the proposed adjusted building footprint generally within the existing building footprint at the site? *Mr. Staehle responded "Yes."*

The public testimony period was opened.

Troy Bristol, representing Save Mount Diablo, indicated the following:

- Appreciate the work of staff and the applicant to ensure Mitchell Creek is not encroached upon.
- Support preparation of a mitigated negative declaration and request the opportunity to receive the document when it is distributed.

Gloria Utley, 5950 High Street, indicated the following:

- Access to garages on High Street appear to impede access across the High Street bridge to our driveways. *Mr. Staehle responded that the project would not impede access across the High Street bridge to the residences west of the project site.*
- What is happening with the small triangular piece near the bridge? *Mr. Staehle responded that the issue was still unresolved.*
- We like the frogs in the creek; we want them to stay.

Commissioner Odrzywolski asked if there will be enough space on High Street to allow vehicles to cue up for entrance into the garages? *Mr. Staehle responded that, with the 52 feet of right-of-way on High Street, there should be room to accommodate cars cueing up.*

Lanny Utley, 5950 High Street, indicated the following:

- Have lived at 5950 High Street for 40 years.
- Do not understand why we are taking the smallest parcels in the Town Center and building these types of dense projects on them.
- We need to address where the garbage cans will go that are placed by the residents on the High Street bridge.
- How will the applicant address placement of the 14 +/- garbage cans for the seven downstairs commercial units and seven residential units upstairs? *Mr. Staehle indicated that trash will be accommodated by one large commercial dumpster so there will not be 14 or so individual garbage cans generated by the tenants and residents occupying the project.*

Steve Carvajal, 989 Oak Street, indicated he also had concerns about the parking and trash issues related to the project.

Commission comments and questions included:

- Have you thought about the trash issue? *Mr. Staehle indicated that the large commercial dumpster would be located inside the building.*
- How will the trash be serviced? *Mr. Staehle indicated that a commercial truck will enter High Street, pick up the trash, and back out onto Oak Street.*
- We think you are moving in the right direction but there are issues that remain and must be addressed.

Commissioner Odrzywolski moved and Vice Chair Catalano seconded a motion to continue the study session for ENV 01-08 and the public hearing for DP 01-08 to the next regular meeting of April 8, 2008. The motion passed 4-0.

Old Business

4. None.

New Business

5. None.

Communications

6A. Staff

Director Woltering indicated that the City Clerk requested that the Commissioners submit their Form 700 documents prior to the April 1, 2008 deadline.

6B. Commission – None.

Adjournment

7. The meeting was adjourned at 8:05 p.m.

Submitted by
David Woltering, AICP
Interim Community Development Director

Approved by
Keith Haydon
Chair

Plng Comm 2008 Minutes 0325

PLANNING COMMISSION STAFF REPORT

Meeting Date: April 8, 2008

From: David Woltering 
Interim Community Development Director

Subject: Compliance Review of Alves Large Family Day Care Permit
(CDD 04-07)

PROJECT INFORMATION

Applicant / Location Shelly Alves
6015 Golden Eagle Way
APN 118-630-001 (See **Exhibit A** for Location Map)

General Plan Designation Single Family Residential- Medium Density. This proposal complies with the *General Plan* designation.

Zoning Planned Development (PD)

Environmental Review Categorically exempt per Section 15274 of the State CEQA Guidelines

Public Notice On March 29, 2008, a public hearing notice was mailed to property owners within 300 feet of the site as well as to a list of citizens requesting notification regarding this project. To date, no comments have been received by staff.

BACKGROUND

On October 2, 2007, the Clayton City Council adopted Resolution No. 42-2007 (See **Exhibit B**), a resolution denying an appeal of the Planning Commission's approval of a Large Family Day Care Permit at 6015 Golden Eagle Way. This action of the City Council was based on specified findings and conditions as included in the resolution. Condition No. 7 of this resolution requires a compliance review of conditions 1-6 by the Planning Commission on or before April 15, 2008. The purpose of this Planning Commission agenda item is to perform this compliance review. Noticing of this item has been performed as stated above, and the Large Day Care operator, Mrs. Shelly Alves Goodrich, has provided a letter, commenting on her compliance with conditions 1-6 (See **Exhibit D**). Conditions 1-7 of Resolution No. 42-2007 are listed immediately below:

1. The day care home may have one employee who is not a member of the resident household. The employee's vehicle must be parked in an off-street parking space

- on the subject property.
2. Noise which may create a nuisance to neighboring residents shall be avoided.
 3. No signage shall be permitted on the subject property.
 4. The Applicant shall revise the title of "Traffic & Parking Guidelines" to "Traffic & Parking Conditions" and shall incorporate the wording listed below. The revised document shall be submitted to the Community Development Director for review and approval, as well as inclusion in the project file. The document shall be provided to all clients.
 - a. All persons dropping off or picking up children must follow the routes shown on the map of "Drop-Off & Pick-Up Routes" when driving to and driving from the day care home from locations outside of the Windmill Canyon and Falcon Ridge neighborhoods.
 - b. All persons dropping off or picking up children are strongly discouraged from making U-turns in the driveways of any neighboring properties, or within any portion of Golden Eagle Way.
 - c. All persons dropping off or picking up children must park their vehicles in the driveway of the day care home or in the legal parking spaces located directly in front of and on the same side of the street as the day care home.
 - d. All persons dropping off or picking up children must practice safe driving habits and observe all traffic regulations when driving to and from the day care home.
 - e. Any parked vehicle which blocks a travel lane, public sidewalk, or driveway of the day care home or a neighboring residence is subject to citation by the Clayton Police Department.
 - f. Clients who do not insure that the above conditions are followed will be terminated from day care services.
 5. The parking spaces in the garage and driveway shall be only used for the Applicant's and Applicant's household residents' motor vehicles. The driveway and garage shall not be used for parking or storage of any trailers, recreational vehicles, or similar equipment licensed for movement on public streets and highways.
 6. The Applicant shall keep the on-street parking spaces in front of the residence available for the parking of clients' vehicles to the maximum extent practical. The Applicant shall not locate play equipment or park trailers or equipment licensed for movement on public streets and highways in the on-street parking spaces in front of the residence.
 7. The Planning Commission shall review the Applicant's compliance with Conditions 1-6 at a public meeting on or before April 15, 2008.

ANALYSIS

Staff has visited the site of the Large Day Care operation; met with Mrs. Alves Goodrich and reviewed her letter of April 1, 2008; and checked in with the Clayton Police Department.

Comments Regarding Compliance with Conditions 1-6

1. There is one employee of the Large Day Care. This employee walks to the home. There appears to be compliance with this condition.
2. On occasion the children have made noise that may be a concern to neighbors. The Day Care operator indicates that she consistently reminds the children and their parents of the need to be considerate of the neighbors and lower their voices. She has limited the hours outside to mitigate any impacts to neighbors. There appears to be general compliance with this condition.
3. The only signage on the property at the time of the site visit was a small 8 1/2" x 11" sign on the front door reminding parents of the need to comply with the parking requirements placed on the use. There appears to be compliance with this condition.
4. The Day Care Operator has prepared and had approved "Traffic and Parking Guidelines." She has her client parents sign agreements to comply with these requirements, and she monitors for compliance. She admits that there have been some enforcement issues, but she has followed up immediately to resolve these situations. There appears to be general compliance with this condition.
5. The Day Care Operator indicated that at limited times her husband has had a work vehicle in the driveway, but that they have been able to generally comply with this condition during the operating hours of the day care. There appears to be general compliance with this condition.
6. The Day Care Operator has distributed informational flyers to her clients and monitors their parking to assure that they conform with this condition of approval. There appears to be general compliance with this condition.

Staff has also contacted the Clayton Police Department staff and learned that there have been 4-6 calls to that Department during this review period regarding parking and/or noise issues associated with this address. The calls, apparently, were for informational purposes and occurred sometime after the incidents. No official reports were filed. The Police Department staff indicated that there has not been any noticeable increase in speeding, citations or accidents in the area of the subject property during this review period.

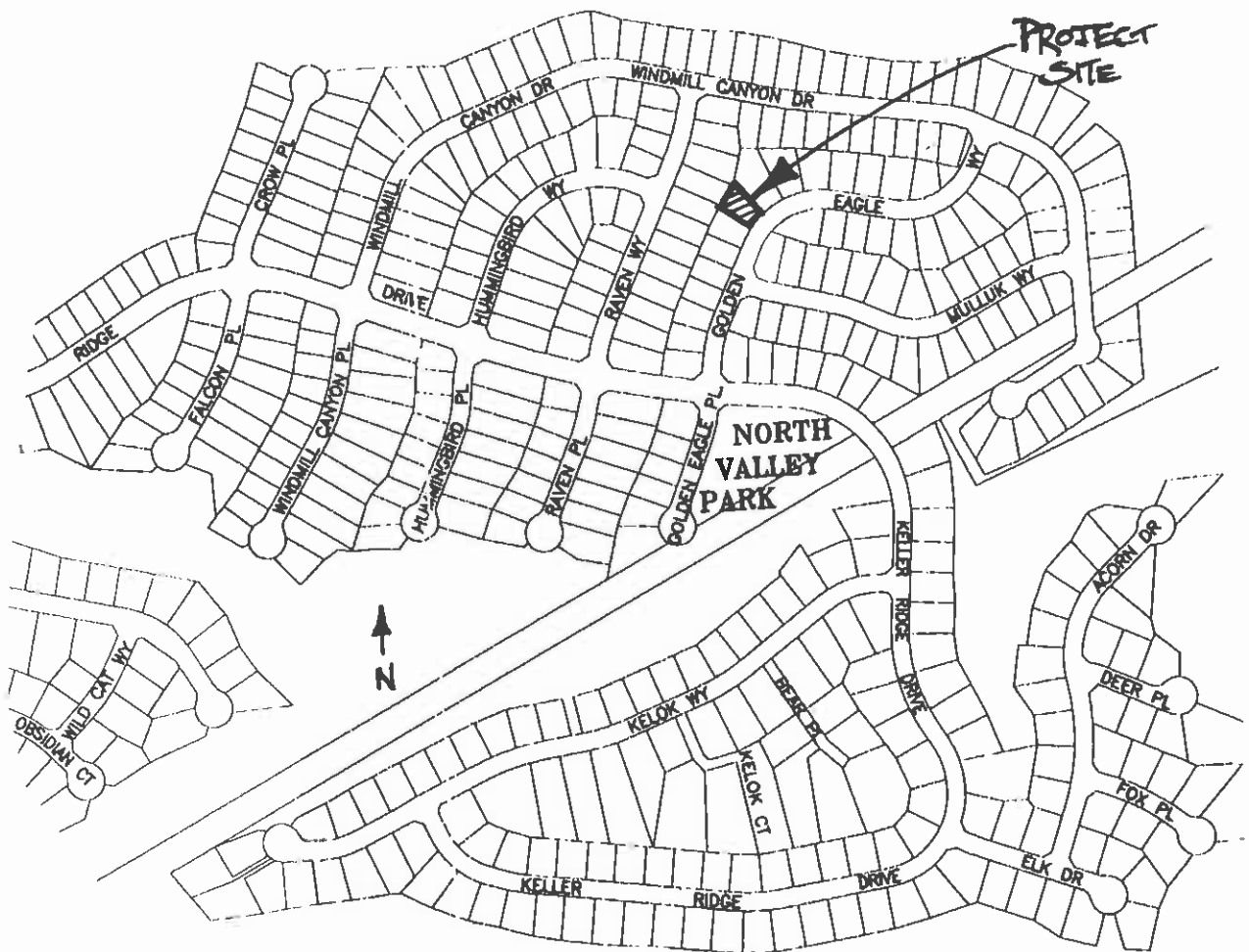
RECOMMENDATION

Staff recommends that the Planning Commission find that the Alves Large Family Day Care is in general compliance with conditions 1-6 of Resolution No. 42-2007. Additionally, staff recommends that the Planning Commission direct the Day Care Operator to continue to diligently monitor and enforce these conditions of approval.

EXHIBITS

- A Location Map
- B City Council Resolution No. 47-2007
- C Excerpt from Section 1597.46 of California Health and Safety Code
- D Letter Submitted by Shelly Alves, Large Family Day Care Operator, dated 4/1/08
- E Copy of Shell's Lil' Angels Family Day Care Traffic & Parking Conditions Agreement
- F Alves Large Family Day Care Drop-Off & Pick-Up Routes

CDD:2007 04-07.sr7



Location Map
6015 Golden Eagle Way
APN 118-630-001

EXHIBIT A

RESOLUTION NO. 42-2007

**A RESOLUTION DENYING AN APPEAL OF THE PLANNING COMMISSION'S
APPROVAL OF LARGE FAMILY DAY CARE PERMIT CDD 04-07, AND
AMENDING THE CONDITIONS OF APPROVAL FOR
LARGE FAMILY DAY CARE PERMIT CDD 04-07
(6015 GOLDEN EAGLE WAY)**

**THE CITY COUNCIL
City of Clayton, California**

WHEREAS, on May 16, 2007, the Community Development Director approved a Large Family Day Care Permit CDD 04-07, regarding operation of a large family day care home located at 6015 Golden Eagle Way (hereinafter referred to as the "Project Site") by Shelly Alves (hereinafter referred to as the "Applicant"); and

WHEREAS, on May 23, 2007, Steve Barber and Stephen Snow filed a timely written appeal of the Community Development Director's decision to the Planning Commission; and

WHEREAS, on May 29, 2007, Michael and Dolores Schmidt filed a timely written appeal of the Community Development Director's decision to the Planning Commission; and

WHEREAS, on June 12, 2007 and June 26, 2007, the Planning Commission held a properly-noticed appeal hearing and received and considered oral testimony, staff reports, and information from the Applicant, Steve Barber, Stephen Snow, Michael Schmidt, Dolores Schmidt, and public presented at the appeal hearing; and

WHEREAS, on June 26, 2007, the Planning Commission denied the appeal filed by Steve Barber and Stephen Snow, denied the appeal filed by Michael and Dolores Schmidt, and approved the large family day care permit with conditions; and

WHEREAS, on July 5, 2007, Paul J. Graves (hereinafter referred to as the "Appellant"), filed a timely written appeal of the Planning Commission's decision to the City Council; and

WHEREAS, at a regular meeting of the City Council on September 4, 2007, the City Council received public testimony regarding the appeal; and

WHEREAS, at a regular meeting of the City Council on September 18, 2007, the City Council conducted a properly-noticed appeal hearing and received further public testimony regarding the appeal; and

WHEREAS, the project is categorically exempt from the California Environmental Quality Act (CEQA) in accordance with Section 15274 of the State CEQA Guidelines.

NOW, THEREFORE, the City Council of Clayton, California does hereby find and resolve as follows:

Section 1. Denial of Appeal

The appeal filed by the Appellant identified five grounds. On the basis of the evidence in the record, and the reasons set forth in this resolution, including this Section 1 as well as Sections 2 and 3, the City Council denies the appeal of the Planning Commission's decision and makes the following findings and determinations with respect to the Appellant's grounds of appeal:

- A. Traffic. There is no basis for the Appellants' allegation that the Applicant's residence is located at an unsafe location and that additional traffic created by the project will create an unreasonable risk. The Planning Commission considered the following information in making its decision:
 - 1. Golden Eagle Way is designated as a "Local Street" in the General Plan and has a pavement width of the pavement (curb to curb) of 40 feet. This width is constant over the course of the entire street. As a Local Street, Golden Eagle Way is designed for direct vehicular access to residences, including residents and visitors pulling vehicles into driveways and backing vehicles out of driveways.

2. The Project Site is on the outside of a downhill curve on Golden Eagle Way. Motorists driving in accordance with the 25 mph speed limit have adequate sight distances (considering the downhill curve) in the vicinity of the Project Site to allow U-turns and 3-point turns.
3. The vehicular capacity of Golden Eagle Way is a total of approximately 2000 vehicles per hour in both directions.
4. If a maximum of 14 children are cared for at the Project Site and each child is separately dropped off and picked up, 28 additional vehicle trips per day would be added to the existing baseline traffic. This increase will not adversely affect the traffic capacity of Golden Eagle Way or other local streets in the area.
5. According to the Police Department no citations have been issued for moving violations on Golden Eagle Way.

In recognition of neighborhood concerns regarding traffic generated by the proposed use, the Planning Commission imposed conditions of approval to ensure:

1. Clients must follow the routes shown on the map of "Drop-Off & Pick-Up Routes" when driving to and driving from the day care home from locations outside of the Windmill Canyon and Falcon Ridge neighborhoods.
2. Clients are strongly discouraged from making U-turns in the driveways of any neighboring properties, or within any portion of Golden Eagle Way.
3. Clients dropping off or picking up children must practice safe driving habits and observe all traffic regulations when driving to and from the day care home.
4. Clients who do not follow the above conditions will be terminated from day care services by the Applicant.

On the basis of the information considered by the Planning Commission and the conditions of approval imposed by the Planning Commission and amended by the City Council, the City Council finds that the Applicant's residence is not located at an unsafe location and that additional traffic created by the project will not create an unreasonable risk to motorists or pedestrians.

- B. Parking. There is no basis for the Appellant's allegation that parking at the Applicant's residence is inadequate to support a large family day care home. The Planning Commission considered the following information in making its decision:
1. The subject residence has a two-car garage and a driveway which widens for parking of three vehicles.
 2. The width of the subject lot at the street is approximately 55 feet, with approximately 20-22 feet used for the driveway.
 3. Testimony from the Applicant and several state-licensed day care providers indicated that all persons dropping off and picking up children do not arrive at or near the same time. In addition, the Applicant indicated some children arrive with their siblings, thereby reducing the number of drop-off and pick-up trips.
 4. The Applicant indicated client parents have been requested to drive around the block again if parking spaces are not available in applicant's driveway or on the street in front of her residence.
 5. Golden Eagle Way is a public street with parking allowed on both sides of the street.

In recognition of neighborhood concerns regarding parking generated by the proposed use, the Planning Commission imposed conditions to ensure:

1. Clients dropping off or picking up their children must park their vehicles in the driveway of the day care home or in the legal parking spaces located directly in front of and on the same side of the street as the day care home.
2. Any parked vehicle which blocks a travel lane, public sidewalk, or driveway of the day care home or a neighboring residence is always subject to citation by the Clayton Police Department.

3. Clients who do not follow the above conditions will be terminated from day care services by the Applicant.
4. The day care home may have one employee who is not a member of the resident household. The employee's vehicle must be parked in an off-street parking space on the Project Site.
5. The parking spaces in the garage and driveway shall be only used for the Applicant's and Applicant's household residents' motor vehicles. The driveway and garage shall not be used for parking or storage of any trailers, recreational vehicles, or similar equipment licensed for movement on public streets and highways.
6. The Applicant shall keep the on-street parking spaces in front of the residence available for the parking of clients' vehicles to the maximum extent practical. The Applicant shall not locate play equipment or park trailers or equipment licensed for movement on public streets and highways in the on-street parking spaces in front of the residence.

On the basis of the information considered by the Planning Commission and the conditions of approval imposed by the Planning Commission and amended by the City Council, the City Council finds that parking at the Applicant's residence is adequate to support a large family day care home.

- C. Previous Issues with Parking and Traffic. There is no basis for the Appellant's allegations that the Applicant was unable to control parking and traffic at a former day care location or the current location. The Planning Commission considered the following information in making its decision:
- I. Testimony from the Applicant that she had parking guidelines at her former small family day care home on Suisun Court. She noted that she had problems with some clients not complying with the guidelines, but after she spoke with the offending clients, the problems were resolved.

In recognition of neighborhood concerns regarding parking and traffic generated by the proposed use, the Planning Commission imposed the conditions of approval generally described above regarding traffic and parking. To ensure clients are aware of and abide by these conditions, the Commission required the Applicant to provide all clients with copies of the "Traffic & Parking Conditions" prepared by the Applicant and the Planning Commission Notice of Decision. Furthermore, the clients must sign a copy of the "Traffic & Parking Conditions" with the acknowledgment that failure to follow the conditions will result in termination from the day care.

On the basis of the information considered by the Planning Commission and the conditions of approval imposed by the Planning Commission and amended by the City Council, the City Council finds that Applicant adequately controlled parking and traffic at her former day care location and has adequately controlled parking and traffic at the Project Site.

- D. Other Large Family Care Homes. There is no basis for the Appellant's allegation that the Applicant's location is deficient in terms of parking availability and traffic safety in comparison to other residences in the Clayton area which may be operating as large family day homes.

The City Council noted that the State Health and Safety Code establishes four factors cities can consider in the evaluation of large family day care permits: spacing and concentration, traffic control, parking, and noise control. The Commission viewed photographs and heard testimony provided by local residents regarding the circumstances of other residences. The City Council also viewed photographs and considered testimony and evaluated the permit application on its own merits. At the conclusion of the public hearing, the City Council determined the permit application, with the addition of several conditions of approval, was consistent with the four factors established by the Health and Safety Code. On the basis of the information considered by the Planning Commission and the

conditions of approval imposed by the Planning Commission and amended by the City Council, the City Council finds that the Applicant's location is not deficient in terms of parking availability or traffic safety in comparison to other residences in the Clayton area which may be operating as large family day homes.

- E. Appellant's Conclusion. There is no basis for the Appellant's allegation that the cumulative effect of the Applicant's location, parking, and actions at the Applicant's prior residence on Suisun Court warrant denial of the current permit application or the Appellant's allegation that approval of the permit would mean any residence in the City would be appropriate for a large family day care permit.

The City Council considered the four state-mandated factors individually and cumulatively in making its determination. The City Council required several conditions of approval regarding traffic and parking issues including the following:

1. Traffic routes for parents;
2. Discouraging use of neighboring driveways for U-turns;
3. Requiring parents to park in the Applicant's driveway or directly in front of and on the same side of the street as the Applicant's home;
4. Mandates that the Applicant's garage will be only used for the Applicant's motor vehicles;
5. Restrictions on the storage of trailers, equipment, or recreational vehicles in the Applicant's driveway; and
6. Restrictions on the parking of trailers or equipment in the on-street parking spaces in front of the residence.

On the basis of the information considered by the Planning Commission and the conditions of approval imposed by the Planning Commission and amended by the City Council, the City Council finds that the cumulative effects of the Applicant's location, parking, and actions at the Applicant's prior residence on Suisun Court do not warrant denial of the current permit application. Furthermore, the City considers all large family day care permits on a case-by-case basis in view of the

circumstances of the individual residence and surrounding neighborhood conditions. Therefore, approval of the permit would not mean any residence in the City would be appropriate for a large family day care permit.

Section 2. Findings for Approval of Large Family Day Care Home Permit

Based on the evidence set forth in the staff reports which include all relevant information from the project file, as well as public testimony given before the City Council appeal hearing, the City Council confirms the Planning Commission's findings for approval that the large family day care home permit, as conditioned:

- A. Is consistent with the *General Plan* designation and policies.
- B. Is consistent with the Planned Development District residential zoning for the Project Site.
- C. Meets the following standards established in California Health and Safety Code Section 1597.46(a)(3) regarding city approval of large family day care homes.
 - 1. Spacing and concentration of large family day care homes. Four large family day care homes are located in Clayton. The subject large family day care home is located at least one mile from the nearest large family day care home in the Black Diamond subdivision. As a result, the subject large family day care home will not create an over-concentration of large family day care homes in the Windmill Canyon subdivision.
 - 2. Traffic control. Golden Eagle Way is designated as a "Local Street" in the Circulation Element of the *General Plan*; has a curb-to-curb pavement width of 40 feet; has a vehicular capacity of approximately 2000 vehicles per hour in both directions; and based upon the 25 mph speed limit, has adequate sight distances (considering vertical and horizontal curves) in the vicinity of the Project Site to allow U-turns and 3-point turns. In addition, the conditions of approval stipulate that the Applicant must notify client parents that U-turns in the driveways of any neighboring properties or within any portion of Golden Eagle Way is strongly discouraged. On the

basis of this information and the Drop-Off & Pick-Up Routes map, the maximum of 28 additional vehicles trips per day needed for parents to drop-off and pick-up their children at the subject large family day care home will not exceed the capacity of Golden Eagle Way or create traffic congestion in the immediate or nearby areas of the neighborhood.

3. **Parking.** The subject residence is located on a public street with parking allowed on both sides of the street; the conditions of approval stipulate that the applicant must notify clients that vehicles of persons dropping off or picking up children must be parked in the driveway of the day care home or in the parking spaces located directly in front of the subject day care home during drop-off and pick-up times and that these vehicles, if blocking travel lanes or driveways of neighboring residences, are always subject to citation by the Police Department; the conditions of approval also include stipulations regarding the parking spaces in the applicant's garage and driveway to ensure these spaces are not used for storage of equipment or vehicles. On the basis of these circumstances and the conditions of approval, the subject large family day care home will not create an adverse parking situation in the immediate or nearby areas of the neighborhood.
4. **Noise control.** The applicant's daily schedule indicates that day care activities are primarily located inside the subject residence and outdoor activities are generally limited to one hour or less. A noise permit, including notification of nearby property owners, is required by the *Municipal Code* for use of any sound-amplification permit. Drop-offs and pick-ups of children may generate up to 28 additional vehicle trips per day at the subject residence. These trips may create additional vehicular noise (e.g., engine noise, opening and closing vehicle doors) which may be noticeable to nearby residents, but would not be significant. The conditions of approval stipulate that noise which may create a nuisance to neighboring residents must be avoided. The Health and Safety Code states that noise

standards for large family day care must take into consideration the noise levels generated by children. On the basis of these circumstances, the conditions of approval, and the Health and Safety Code provisions, the subject large family day care home will not create an adverse noise situation in the immediate or nearby areas of the neighborhood.

Section 3. Approval of Large Family Day Care Permit

The Planning Commission's decision to approve the project is hereby approved by the City Council subject to the conditions listed below. The following conditions apply to the site plan (date stamped May 14, 2007) and "Traffic & Parking Guidelines" (date stamped June 22, 2007) submitted by the applicant, as well as the map of "Drop-Off & Pick-Up Routes"(dated June 22, 2007) prepared by the City staff.

1. The day care home may have one employee who is not a member of the resident household. The employee's vehicle must be parked in an off-street parking space on the subject property.
2. Noise which may create a nuisance to neighboring residents shall be avoided.
3. No signage shall be permitted on the subject property.
4. The Applicant shall revise the title of "Traffic & Parking Guidelines" to "Traffic & Parking Conditions" and shall incorporate the wording listed below. The revised document shall be submitted to the Community Development Director for review and approval, as well as inclusion in the project file. The document shall be provided to all clients.
 - a. All persons dropping off or picking up children must follow the routes shown on the map of "Drop-Off & Pick-Up Routes" when driving to and driving from the day care home from locations outside of the Windmill Canyon and Falcon Ridge neighborhoods.
 - b. All persons dropping off or picking up children are strongly discouraged from making U-turns in the driveways of any neighboring properties, or within any portion of Golden Eagle Way.

- c. All persons dropping off or picking up children must park their vehicles in the driveway of the day care home or in the legal parking spaces located directly in front of and on the same side of the street as the day care home.
 - d. All persons dropping off or picking up children must practice safe driving habits and observe all traffic regulations when driving to and from the day care home.
 - e. Any parked vehicle which blocks a travel lane, public sidewalk, or driveway of the day care home or a neighboring residence is subject to citation by the Clayton Police Department.
 - f. Clients who do not insure that the above conditions are followed will be terminated from day care services.
5. The parking spaces in the garage and driveway shall be only used for the Applicant's and Applicant's household residents' motor vehicles. The driveway and garage shall not be used for parking or storage of any trailers, recreational vehicles, or similar equipment licensed for movement on public streets and highways.
6. The Applicant shall keep the on-street parking spaces in front of the residence available for the parking of clients' vehicles to the maximum extent practical. The Applicant shall not locate play equipment or park trailers or equipment licensed for movement on public streets and highways in the on-street parking spaces in front of the residence.
7. The Planning Commission shall review the Applicant's compliance with Conditions 1-6 at a public meeting on or before April 15, 2008.
8. The Applicant agrees to indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including attorney's fees and disbursements arising out

of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, or the environmental review conducted under the California Environmental Quality Act for this entitlement and related actions.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 2nd day of October 2007, by the following vote:

AYES: Vice Mayor Manning, Councilmembers Pierce and Stratford.

NOES: Mayor Walcutt.

ABSENT: Councilmember Shuey.

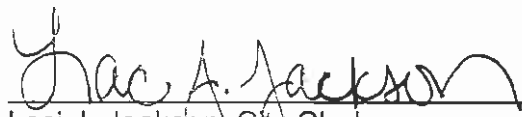
ABSTAIN: None.

THE CITY OF CLAYTON, CALIFORNIA



William R. Walcutt, Mayor

ATTEST:



Laci J. Jackson, City Clerk

CDD\2007\04-07-Resolution

Excerpt - California Health and Safety Code 1597.46

California Health and Safety Code Section 1597.46 establishes the procedures for city review of large family home day care homes, as listed below .

1597.46. All of the following shall apply to large family day care homes:

- (a) A city, county, or city and county shall not prohibit large family day care homes on lots zoned for single-family dwellings, but shall do one of the following:
- (1) Classify these homes as a permitted use of residential property for zoning purposes.
 - (2) Grant a nondiscretionary permit to use a lot zoned for a single-family dwelling to any large family day care home that complies with local ordinances prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control related to such homes . . .
 - (3) Require any large family day care home to apply for a permit to use a lot zone for single-family dwellings. The zoning administrator, or if there is no zoning administrator, the person or persons designated by the planning agency to handle the use permits, shall review and decide the applications. The use permit shall be granted if the large family day care home complies with local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning the following factors: spacing and concentration, traffic control, parking, and noise control relating to those homes, and complies with subdivision (e) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise levels generated by children. The local government shall process any required permit as economically as possible. . . .
- . . . Not fewer than 10 days prior to the date on which the decision will be made on the application, the zoning administrator or person designated to handle the use permits shall give notice of the proposed use by mail or delivery to all owners shown on the last equalized assessment roll as owning real property within a 100-foot radius of the exterior boundaries of the proposed large family day care home. No hearing on the application for a permit issued pursuant to this paragraph shall be held before a decision is made unless a hearing is requested by the applicant or other affected person. The applicant or other affected person may appeal the decision. [Emphasis added.]

Tuesday, April 1, 2008

Community Development Director
Planning Commissioners
6000 Heritage Trail
Clayton, CA 94517

Subject: Six Month Review of Large Family Day Care Permit CDD 04-07

On October 2, 2007 the Clayton City Council approved Resolution No. 42-2007 regarding denial of the appeal of the Planning Commission's approval of the Aves Large Family Day Care Permit at 6015 Golden Eagle Way and amendment of the conditions of approval for the Permit.

"Condition No. 7 of Resolution No. 42-2007 requires a compliance review of conditions of approval 1- 6 on or before April 15, 2008." The following are the conditions as listed in the approved Resolution No. 42-2007 and the manner in which they have been met by the Large Family Day Care at 6015 Golden Eagle Way:

1. The day care home may have one employee who is not a member of the resident household. The employee's vehicle must be parked in an off-street parking space on the subject property.
 - a. I understand that I may not have more than one employee on the premises at any given time.
 - b. It is my understanding that the main reason for this condition was to limit the number of cars that might be parked at the property.
 - c. My employee lives in the Oakhurst community and thus walks to and from the day care. The employee does not drive a vehicle and does not ever intend to drive a vehicle to and from the day care.
2. Noise which may create a nuisance to neighboring residents shall be avoided.
 - a. As stated in previous meetings, the outside time for the children per the day care schedule is 10:30 to 11:30. We are typically back inside no later than 11:15. As well, in condition No. 10 of the Traffic & Parking Conditions contract: Do not play your radio so loudly that it can be heard within the neighborhood when driving on Golden Eagle Way or within the vicinity of the day care.
3. No Signage shall be permitted on the subject property.
 - a. No signage is posted on the property other than my personal vehicle.
4. The Applicant shall revise the title of "Traffic & Parking Guidelines" to "Traffic & Parking Conditions" and shall incorporate the wording listed below. The revised document shall be submitted to the Community Development Director for review and approval, as well as inclusion in the project file. The document shall be provided to all clients.
 - a. The title "Traffic & Parking Guidelines" was updated to read "Traffic & Parking Conditions" and was submitted to Jeremy Graves in September of 2007. All day care clients have read and signed this

EXHIBIT D
(3 PAGES)

- contract to be included in their file and mandated parent meetings have taken place to ensure their knowledge and understanding. Please see "Traffic & Parking Conditions" attached.
- b. With regards to items a through f as listed in the approved Resolution No. 42-2007, please note, I have included some additional items to ensure compliance. See No. 6 through 11 on the "Traffic & Parking Conditions" attached.
 - c. With regards to these conditions, the errors that I have witnessed parents making are rare, only amongst the new clients, and have been immediately corrected. Current clients want to abide by the conditions and have worked hard to do so. New parents have acclimated quickly to the concerns of the neighbors and have also worked hard to make certain that the conditions have been met faithfully through my counseling and conducting mandated parent meetings.
 - d. Please note that not all vehicles coming to and from the day care are client vehicles and have parked only in accordance with city vehicle code and not the "Parking & Traffic Conditions", i.e., visiting neighbors, friends & family, service workman, state licensing, etc. during day care hours who are not contracted with the day care and by the conditions of the permit.
5. The parking spaces in the garage and driveway shall be only used for the Applicant's and Applicant's household residents' motor vehicles. The driveway and garage shall not be used for parking or storage of any trailers, recreational vehicles, or similar equipment licensed for movement on public streets and highways.
- a. There are no trailers, recreational vehicles, or similar equipment in the applicant's garage or driveway.
6. The applicant shall keep the on-street parking spaces in front of the residence available for the parking of clients' vehicles to the maximum extent practical. The applicant shall not locate play equipment or park trailers or equipment licensed for movement on public streets and highways in the on-street parking spaces in front of the residence.
- a. The applicant has continuously kept the on-street parking spaces in front of the residence available for clients. No play equipment, or parked trailers have been maintained in the on-street parking spaces in front of the residence where clients should be parking. Moreover, within the "Traffic & Parking Conditions" clients are specifically requested to park their cars in a manner to make more parking available.

I would like to say that I am very proud of my day care parents and their labored efforts to make certain that the conditions of the permit have been met to the best of their ability. My day care parents are very aware of the scrutiny that they are under and continue to strive to provide their undivided attention to the serious nature of this matter. The majority of the families in my day care are located in the City of Clayton and having a day care right here in their community, and in

fact right here in their neighborhood for several of my families is vital to their livelihood and their family's welfare. And as important as it is to the neighbors of the Oakhurst Community that this Large Family Day Care not exist, it is equally and more important to the neighbors of the Oakhurst Community that currently rely upon this Large Family Day Care for their children's care that this Large Family Day Care does exist.

Thank you so very much for your consideration in this crucial matter.

Shelly A. Alves Goodrich

Shell's Lil' Angels
Family DayCare
6015 Golden Eagle Way
Clayton, CA 94517

TRAFFIC & PARKING CONDITIONS

In order for our family day care home to co-exist with our residential neighbors, it is necessary that traffic and parking laws be obeyed. In addition, the conditions listed below must be followed in order to respect and facilitate the building of good relations with our neighbors. As a result, Shell's Lil' Angels Family DayCare, through discussions with our neighbors and as a condition of our permit from the City of Clayton, must adhere to strict parking and traffic conditions. Parents driving to and from day care are required to follow these conditions when dropping-off and/or picking-up their child/children.

Failure to consistently follow these conditions may result in immediate termination of day care services.

1. Parents must follow the routes shown on the attached map of "Drop-Off & Pick-up Routes" when driving to and driving from the day care home from locations outside of the Windmill Canyon and Falcon Ridge neighborhoods.
2. Parents are strongly discouraged from making U-turns and 3-point turns in the driveways of any neighboring properties, or within any portion of Golden Eagle Way.
3. Parents dropping off or picking up their children must park their vehicles in the driveway of the day care home or in the legal parking spaces located in front of and on the same side of the street as the day care home. Parents should not park their vehicles across the street from the day care home.
4. Parents dropping off or picking up their children must practice safe driving habits and observe all traffic regulations when driving to and from the day care home.
5. Any parked vehicle which blocks a travel lane, public sidewalk, or driveway of the day care home or a neighboring residence is subject to citation by the Clayton Police Department.
6. When all spaces in the driveway and along the curb in front of the day care are filled, please continue driving slowly, following the map by turning left on Mulluk Way and follow up and around to Golden Eagle Way. This will avoid the stopping of cars in the street, waiting for parking.
7. When parking in the driveway, please park using only 1 space, leaving room for other cars. Do not park backing into the driveway!

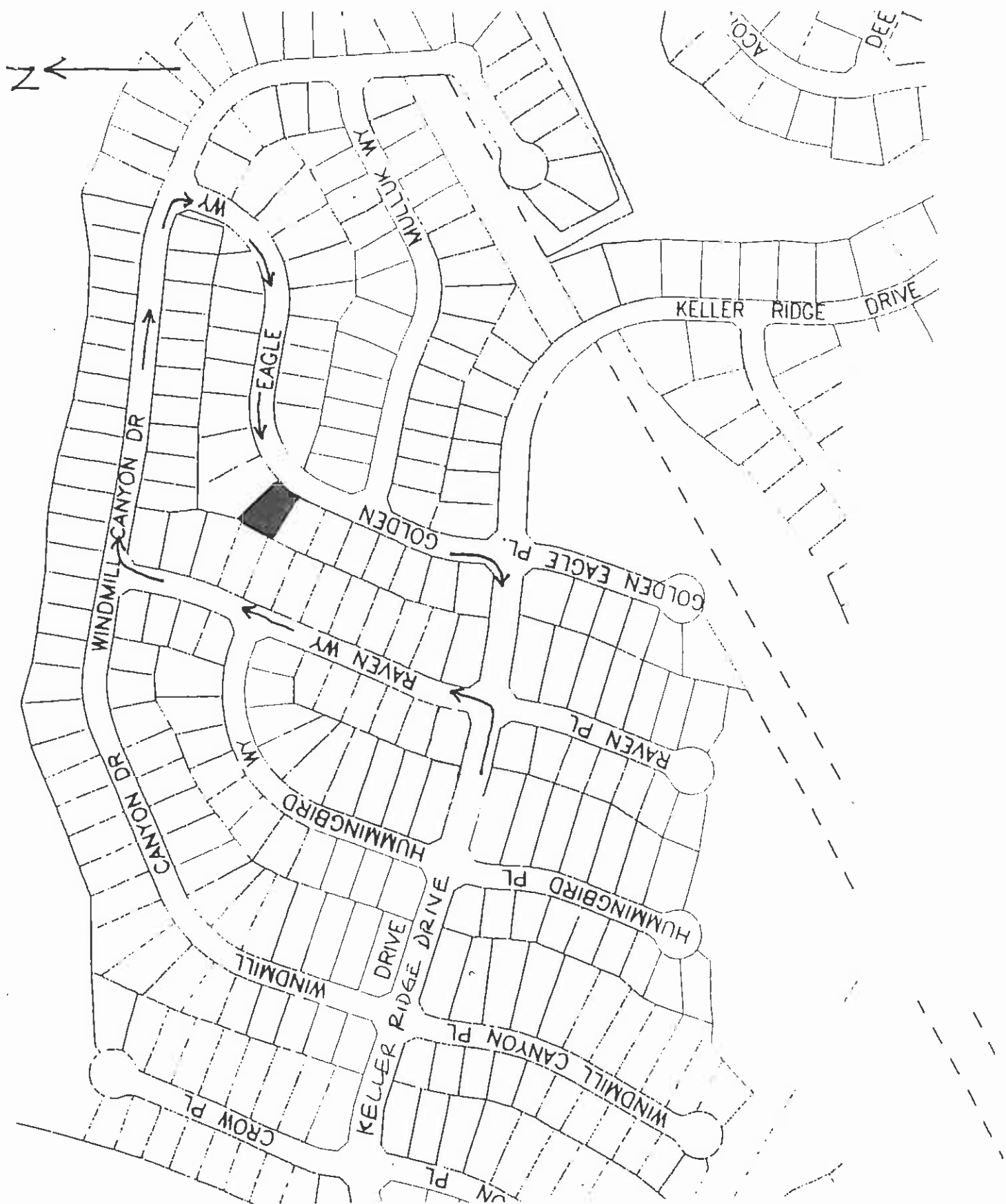
8. When parking on the curb in front of the day care, please pull forward. This will ensure that two cars will be able to park along the curb.
9. Do not leave your vehicle engine running unattended when dropping off or picking up your child.
10. Do not play your radio so loudly that it can be heard within the neighborhood when driving on Golden Eagle Way or within the vicinity of the day care.
11. When your child/children are dropped-off or picked-up by someone other than yourselves (parents), please ensure that these individuals also abide by these same "Parking & Traffic Conditions."
12. **Parents who do not follow the above conditions will be terminated from day care services.**

AGREEMENT

I/We, _____, parent(s)/legal guardian(s) of _____, have read and affirm that I/we understand the foregoing Traffic & Parking Guidelines. I/We agree to abide by such guidelines and understand that non-compliance will result in the termination of services.

Date _____ Signature _____

Date _____ Signature _____



*Alves Large Family Day Care
"Drop-off & Pick-up Routes"*

EXHIBIT F

PLANNING COMMISSION STAFF REPORT

Meeting Date: April 8, 2008

From: Milan J. Sikela, Jr. 
Assistant Planner

Subject: The Rivulet Mixed Use Project
(DP 01-08)

This staff report supplements the staff report dated March 25, 2008.

BACKGROUND AND ARCHITECTURAL ANALYSIS

On March 11, 2008, the Planning Commission reviewed the architecture for the Rivulet project and provided the following comments regarding the southeast corner of the project:

- The southeast corner of the second story is still an issue; a bay window or hipped roof may be options.
- Still have trouble with the straight-line roof on the southeast corner; it needs to be broken up.
- The south end of the first-story sidewalk overhang on Oak Street should be modified from a hipped gable end to a straight gable end.

The applicant has provided two options for Commission review. The first option shows the southeast elevation that the Commission previously reviewed (see **Exhibit H**). The second option shows the addition of a turret feature on the second story of the southeast corner (see **Exhibit I**). The turret provides articulation and visual interest for this corner, avoiding the modular appearance of the “turret-less” elevation in **Exhibit I**. The elevation shown in **Exhibit I** lacks curb appeal and presence, appearing rather abrupt and unrefined. The belly band and trellis do little to soften the corner in this option which retains a somewhat monolithic appearance. Conversely, the **Exhibit J** elevation punctuates the southeast corner, fostering a unique and dynamic addition to the project. A peaked pavilion roof form graces the turret, giving the southeast elevation a unified prominence that stands alone visually as well as blending with the point/counterpoint facades on the Oak Street and High Street elevations. The turret feature also provides a visual anchor for the southeast corner which counterbalances the pitched triangular roof at the northeast corner of the project. This serves to benefit the entire Oak Street elevation, as both segments provide architectural “bookends” for the project. Staff notes that the *Town Center Specific Plan* provides the following guidelines relative to architecture in the Town Center:

- “Avoid flat roofs...except in small areas and those that are not visible.” (Page 47)
- “Offsets, projections, overhangs, and recesses all may be used to produce effective shadow interest areas. Long unbroken expanses of wall of facade should be avoided along street frontages and corners.” (Page 52)

Based on these guidelines, the elevation in **Exhibit J** more closely complies with the intent of the *Specific Plan* with regard to architecture. Furthermore, the **Exhibit J** elevation also addresses the modification of the southern end of the walkway canopy on Oak Street by showing removal of the hipped gable end in favor of a straight gable end. This altered roof terminus serves to tie in the connection between the walkway canopy and building face with the belly band that extends from the Oak Street elevation, around the base of the turret component, and onto the High Street elevation.

The turret projection will extend outward from the corner of the building beyond the property line and into the City's right-of-way. As a result, the applicant will need to obtain an encroachment permit from the City Engineer for the portions of the turret that protrude into the right-of-way. Likewise, an encroachment permit will be required for the overhang and columns that extend along the Oak Street frontage above the sidewalk. The encroachment permits will need to be obtained prior to issuance of a building permit for the project.

RECOMMENDATION

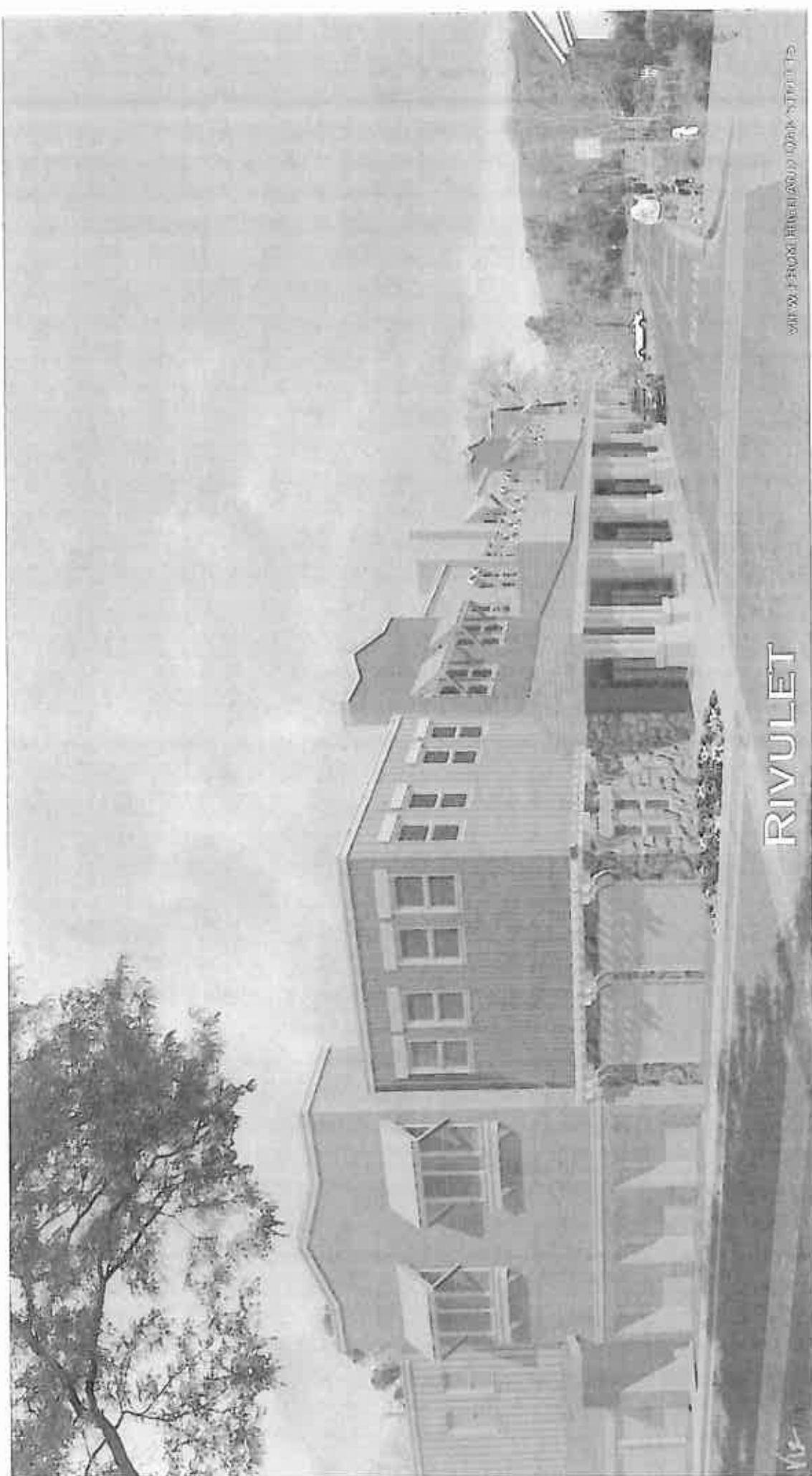
Staff recommends that the Commission:

- Receive and comment on report from staff and applicant regarding architecture proposed for southeastern elevation of project;
- Provide staff and the applicant with direction; and
- Continue the public hearing to the meeting of April 29, 2008.

EXHIBITS

- A-D Provided with the February 26, 2008 staff report
- E Provided with the March 11, 2008 staff report
- F, G Provided with the March 25, 2008 staff report
- H Revised rendering of the southeast elevation (without turret feature), provided by the applicant, date stamped April 4, 2008
- I Revised rendering of the southeast elevation (with turret feature), provided by the applicant, date stamped April 4, 2008

DP 2008-01-08.sr-5

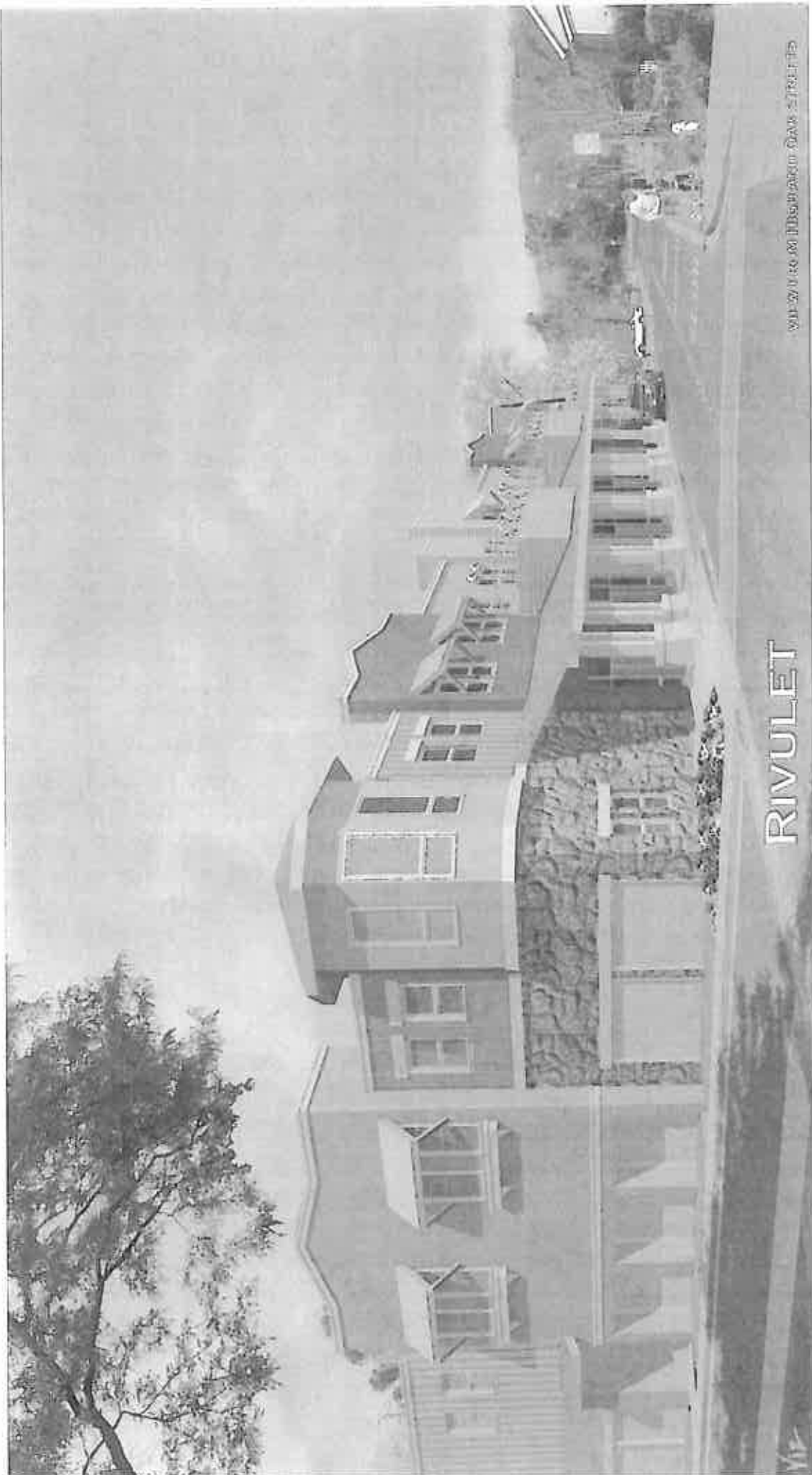


VIEW FROM RIVER ROAD LOOKING EAST

TRELLIS STUDY

RIVULET

EXHIBIT H



RIVULET

VIEW OF RIVULET TOWNHOMES STREET

BAY WINDOW STUDY

EXHIBIT I