



Agenda

Planning Commission Special Meeting 7:00 P.M. on Thursday, December 18, 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. Chair Haydon to report at the January 6, 2009 City Council meeting.

Public Comment

Approval of Minutes

- 2. Approval of minutes from the meeting of December 9, 2008.

Public Hearings

- 3A. **SPR 08-08, Site Plan Review Permit, Toni Guttry**, 5571 Morningside Drive, APN 118-110-010. A re-consideration of a Site Plan Review Permit to allow the construction of a custom two-story, single-family residence measuring approximately 28 feet in height and 4,400 square feet in area.

Proposed Action: Approval, with conditions.

- 3B. **HOP 21-08, Home Occupation Permit, Gerald Kosel**, 1216 Buckeye Terrace, APN 118-470-032. An appeal of an administrative decision to approve a Home Occupation Permit for Brian Johnston to operate a plumbing business from a single-family residence at 1216 Buckeye Terrace.

Proposed Action: Approve or deny based on testimony received.

- 3C. **SPR 07-08, Site Plan Review Permit, Banducci Associates Architects**, Clayton Station. A request for a Site Plan Review Permit to allow various minor modifications to the architecture, exterior colors, and awnings within the Clayton Station shopping center.

Proposed Action: At the request of the applicant, continue to the meeting of January 13, 2009.

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Old Business

4. None.

New Business

5. None.

Communications

- 6A. Staff.
6B. Commission.

Adjournment

7. The next meeting of the Planning Commission is scheduled for **Tuesday, December 18, 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.

Any writing or documents provided to the majority of the Planning Commission after distribution of the agenda packet regarding any item on this agenda will be made available for public inspection in the Community Development Department located at 6000 Heritage Trail during normal business hours.

Minutes
City of Clayton Planning Commission Meeting
Tuesday, December 9, 2008

Call to Order

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

Present: Chair Tuija Catalano, Vice Chair Ed Hartley, Commissioner Bob Armstrong, Commissioner Keith Haydon, Commissioner Sandra Johnson

Absent: None

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

Administrative

1A. Review of agenda items.

1B. Commissioner Armstrong to report at the December 16, 2008 City Council meeting.

Approval of Minutes

2. Approval of minutes from the meeting of November 25, 2008.

Commissioner Haydon and Armstrong moved and Commissioner Haydon seconded a motion to approve the minutes from the meeting of November 25, 2008, as amended. The motion passed 5-0.

Public Hearings

3. **ZOA 03-08, Municipal Code Amendment, City of Clayton.** Consideration of an amendment to the Clayton Municipal Code to allow personal property sales in specified residential districts.

The public hearing was opened. Director Woltering presented the staff report.

Commission questions and comments included:

- Did the Pleasant Hill Municipal Code provide a definition for “personal property sales”? *Assistant Planner Sikela indicated that the Pleasant Hill Municipal Code did not provide a specific definition but rather integrated an example, like garage sales, to describe personal property sales with the actual regulation for the number of times per year that personal property sales could occur.*
- What about amendments to the sign regulations to allow for personal property sales? *Director Woltering indicated that the sign regulations had not been amended other than to reference the term “personal property sales” rather than just garage or yard sales. The number of signs allowed (one on-site and six off-site) had not been modified.*
- The definition should be amended (Vice Chair Hartley provided amended wording to include products produced or made on the premises).
- The number of times personal property sales are allowed per year should be increased to six.

- The Resolution should be amended to reflect that public testimony and staff reports were received and considered during the study sessions at the August 26, 2008 and November 12, 2008 Planning Commission meetings.
- The term “duly-noticed” should be added before all references to the August 26, 2008 and November 12, 2008 study sessions in the Resolution.
- The Ordinance should be amended to reflect the duly-noticed Planning Commission study sessions on August 26, 2008 and November 12, 2008 and the fact that staff reports and testimony were received and considered at those meetings.

Commissioner Armstrong moved and Vice Chair Hartley seconded a motion to adopt Resolution No. 05-08, recommending City Council approval of the proposed ordinance to allow “personal property sales” within Clayton’s residential districts, subject to conformance with the specified parameters. The motion passed 5-0.

Old Business

4. None.

New Business

5. None.

Communications

6A. Staff.

Director Woltering described the projects planned for the December 18, 2008 special meeting of the Planning Commission.

6B. Commission.

Commissioner Armstrong indicated he would not be able to attend the next TRANSPAC meeting.

Adjournment

7. The meeting was adjourned at 7:33 p.m.

Submitted by
David Woltering, AICP
Community Development Director

Approved by
Tuija Catalano
Chair

Plng Comm\2008\Minutes\1209

PLANNING COMMISSION STAFF REPORT

Meeting Date: December 18, 2008

From: Milan J. Sikela, Jr. 
Assistant Planner

Subject: Toni Guttry
Site Plan Review Permit (SPR 08-08)

REQUEST

Approval of a Site Plan Review Permit to allow the construction of a custom two-story, single-family residence measuring approximately 28 feet in height and 4,380 square feet in area.

PROJECT INFORMATION

Applicant / Location: Toni Guttry
5571 Morningside Drive
APN 118-110-010 (See **Exhibit A** for Location Map)

General Plan Designation: Rural Estate - Single Family Residential (0 to 1.0 units per acre).
This proposal complies with the General Plan designation.

Zoning: Single Family Residential R-40-H District (40,000 square-foot minimum lot area) (horses allowed).

Environmental Review: Categorically exempt per Sections 15303(a), Class 3 of the State CEQA Guidelines.

Public Notice: On December 8, 2008, a public hearing notice was posted at the notice boards, mailed to property owners within 300 feet of the site, and faxed to the newspapers. To date, no comments have been received by staff.

Agency Referrals: Comments from the City Engineer and City Stormwater Manager have been incorporated into the text and advisory notes. The Contra Costa County Building Inspection Department, Contra Costa County Fire Protection District, and Contra Costa Water District did not respond.

Authority: Section 17.44.020 of the Zoning Ordinance authorizes the Planning Commission to approve a Site Plan Review Permit in accordance with the Standards of Review in Section 17.44.040.

BACKGROUND

At their meeting of November 25, 2008, the Planning Commission considered a Site Plan Review Permit for the project. Since that time, it has come to staff's attention that a noticing error occurred. As a result, the item has been re-noticed for re-consideration the meeting of December 18, 2008.

Although the Planning Commission reviewed the project at their November 25, 2008 meeting, the item will need to be reconsidered in its entirety to allow the public to review the project and, if so chosen, testify on record regarding any issues of concern.

DISCUSSION

The applicant has requested approval of a Site Plan Review Permit to allow the construction of a custom two-story, single-family residence measuring approximately 28 feet in height and 4,380 square feet in area (including the porch). The residence has been designed with beige horizontal wood siding, off-white trim, burgundy accents, masonry wainscot highlights, and architectural grade composition shingle roof material. The site plan, roof plan, floor plan, and architectural elevations are provided as **Exhibit B**.

Setback Analysis

The project meets the R-40-H District standards as shown below.

Required Setbacks	Existing Setbacks		Proposed Setbacks		Project Compliance
Front Setback 25'	South	None	South	40'	Yes
Side Setback 20' minimum	East	None	East	20'	Yes
	West	None	West	61'	Yes
40' aggregate	Aggregate	None	Aggregate	81'	Yes
Rear Setback 15'	North	None	North	51'	Yes

Residential Floor Area Analysis

Building Footprint

The proposal meets the building footprint requirements as shown below.

Lot Size	Building Footprint Allowed	Existing Building Footprint	Proposed Building Footprint	Project Compliance
33,746 sq ft*	8,437 sq ft	1,960 sq ft	4,367 sq ft*	Yes

Floor Area

The proposal meets the floor area requirements as shown below.

Lot Area	Floor Area Allowed	Existing Floor Area	Proposed Floor Area	Project Compliance
33,746 sq ft*	11,811 sq ft	1,960 sq ft	5,395 sq ft*	Yes

*See discussion below.

According to Section 17.04.110 of the Zoning Ordinance, any area of a lot that is located within an access easement cannot be included “in order to satisfy minimum area, setback, or dimensional requirements.” The gross area of the subject property is 41,382 square feet. An easement exists along the southernmost portion of the property for vehicular access along Morningside Drive. This access easement encompasses approximately 7,636 square feet of the property, thereby reducing the net lot area to 33,746 square feet.

Furthermore, Section 17.78.030.D.3 of the Zoning Ordinance excludes porches where “one of the longest dimensions is unenclosed.” Since the longest side of the porch is unenclosed, it would qualify for this exemption. Therefore, the 945 square-foot area of the porch was not included when calculating the residence’s compliance with the building footprint and floor area requirements.

Existing Barn

An existing 1,960 square-foot single-story barn is located on the project site. Staff researched the history of the barn and discovered that the subject lot was actually part of a larger lot than was subdivided into three smaller lots, the subject lot being one of them. The barn was built in compliance with the City’s setbacks for barns—which are 20 feet from the side and rear property lines for R-40-H lots that abut other R-40-H lots—prior to the parcel map being approved in April 1990 (File 400-90) to subdivide the original property. The parcel map lot lines were established so that the barn is now located five feet from the side property line. As a result, the barn is a legal non-conforming structure. The applicant purchased the property in 2000 with the barn in its current location.

Equestrian Issues

Section 17.16.130 of the Zoning Ordinance requires that paddocks be located a minimum of 10 feet from the property. In order to ensure that the outdoor pasture/paddock area complies with this requirement, staff has provided a condition that, prior to certificate of occupancy for the residence, the applicant establish a fenced-in paddock/pasture area for a maximum of two horses on the subject lot. The proposed condition has been crafted to require that the enclosed area shall maintain a minimum ten-foot setback to adjoining lot lines and measure a minimum of 10,000 square feet in area, in accordance with Clayton Municipal Code requirements.

Landscaping Plan

As part of the project site plan, a preliminary landscaping plan has been provided. The applicant shows the inclusion of trees along both side property lines as well as shrubs and ground in the front

yard and side yard areas. Staff has provided a condition that, prior to building permit issuance, the applicant submit a landscaping plan for review and approval by the Community Development Director.

Design Assessment

The residence has been designed with a country estate motif. Articulation is provided by the various second-story dormers as well as the broad-shouldered wrap-around porch which nurtures an open, human-scale element for the project. The garage segment fosters a dynamic presence for the residence by punctuating the west side of the structure, accentuating the project and providing a prominent visual anchor. Balance is created by the aligned rhythm of the windows while the masonry wainscot and porch balustrades allow for unique visual interest which further augments the rural theme of the project.

Conclusion

Staff has reviewed the design aspects of the proposed plans relative to the standards for Site Plan Review Permits and determined that the project, as conditioned, is in conformance with the standards. The proposed findings listed below specifically address the standards.

RECOMMENDATION

Staff recommends that the Planning Commission approve Site Plan Review Permit SPR 08-08 to allow the construction of a custom two-story single-family residence measuring approximately 28 feet in height and 4,380 square feet in area, based upon the following findings and subject to the following conditions.

Proposed Findings of Approval

Based upon the evidence set forth in the staff reports, which includes relevant information from the project file, as well as testimony at the public hearing, the Planning Commission makes the following findings regarding the Site Plan Review Permit for the addition:

1. Is consistent with the General Plan designation and policies.
2. Meets the standards and requirements of the Zoning Ordinance.
3. Preserves general safety of the community regarding seismic, landslide, flooding, fire, and traffic hazards.
4. Maintains solar rights of adjacent properties.
5. Reasonably maintains the privacy of adjacent property owners and/or occupants.
6. Reasonably maintains the existing views of adjacent property owners and/or occupants.
7. Is complementary, although not identical, with adjacent existing structures in terms of materials, colors, size, and bulk.
8. Is compatible with the neighborhood and surrounding land uses.

The above-stated findings assume acceptance and approval of the proposed conditions of approval listed below.

Proposed Conditions of Approval

These conditions of approval apply to the Guttry Residence Site Plan, Roof Plan, Floor Plan, and Architectural Elevations, prepared by Robert C. Kendall & Associates, date stamped November 13, 2008.

1. Prior to building permit issuance for the residence, the applicant shall submit a landscape and irrigation plan for review and approval by the Community Development Director.
2. Prior to certificate of occupancy for the residence, the applicant shall establish a fenced-in paddock/pasture area for a maximum of two horses on the subject lot. This enclosed area shall maintain a minimum ten-foot setback to adjoining lot lines and measure a minimum of 10,000 square feet in area.
3. Prior to building permit issuance for the residence, the applicant shall submit a grading, drainage, and stormwater treatment plan to the City Engineer for review and approval. In addition, the applicant shall submit an operation and maintenance (O&M) plan for the stormwater treatment facilities including inspection and reporting requirements. The City Engineer shall prepare, and the applicant shall execute, a covenant to be recorded describing the O&M procedures, inspection and reporting requirements, and assuring compliance therewith by the current and any future property owner. All recordation costs shall be incurred by the applicant.
4. 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, judgements, 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.

Advisory Notes

Advisory notes are provided to inform the applicant of: (a) Clayton Municipal Code requirements; or (b) requirements imposed by other agencies. The advisory notes state requirements that may be in addition to the conditions of approval.

1. The applicant shall comply with all applicable state, county, and city codes, regulations, and adopted standards.
2. Prior to obtaining a building permit, the applicant shall prepare an erosion and stormwater control plan for review and approval by the City Engineer (CMC §13.12.050).
3. Prior to the commencement of grading, demolition, or construction activities, the applicant shall obtain City approval of a construction and demolition recycling plan (CMC § 15.80.040).
4. The applicant shall provide the following plans to City staff for review and approval within three (3) months of this Site Plan Review Permit approval by the Planning Commission. Prior to issuance of a certificate of occupancy for the residence, the applicant shall implement and/or install (as appropriate) any improvements in accordance with the plans.
 - a. Plans for installation of a containment basin and septic system or other site design or mechanism to capture and treat on-site surface runoff from the pasture and paddock areas.
 - b. A maintenance plan acceptable to the City for the containment and treatment systems. The plan shall include water quality monitoring and address funding and enforcement provisions.

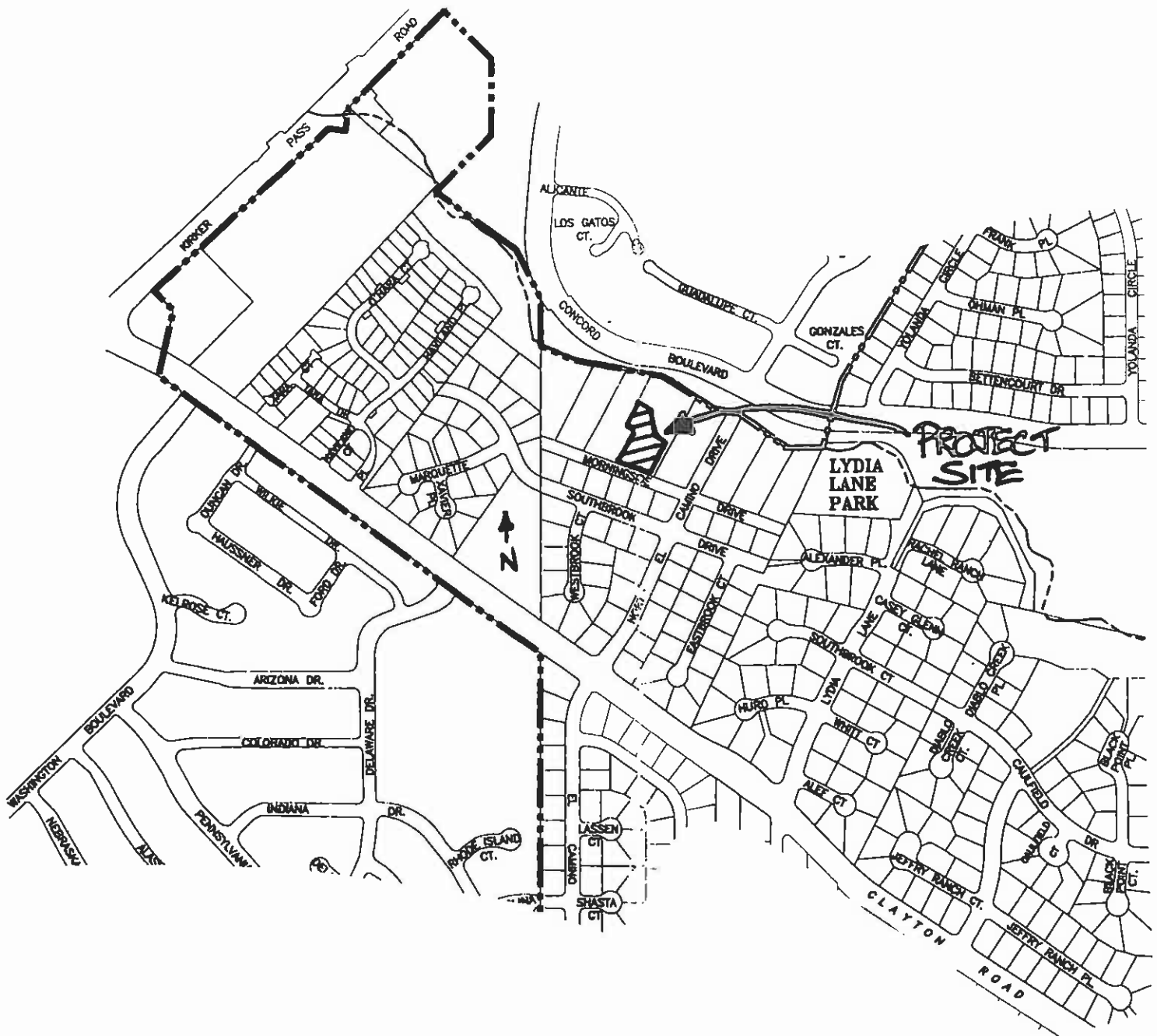
These requirements may be superseded by City adoption of zoning or stormwater regulations pursuant to State water quality regulations which address the water quality impacts of horse keeping on residential lots.

5. This site plan permit shall be used, exercised, or established within twelve months after the granting of the Permit, or a time extension must be obtained from the Planning Commission, otherwise the Permit shall be void (CMC §17.64.010-030).
6. All grading, construction, and other work shall occur only between 7:00 a.m. and 5:00 p.m. Monday through Friday. Any such work beyond these hours and days is strictly prohibited unless previously authorized in writing by the City Engineer (CMC §15.01.010) located at 1005 Oak Street, 925-672-9700.
7. The applicant shall obtain the necessary building permits from the Contra Costa County Building Inspection Department.
8. Additional requirements may be imposed by the Contra Costa County Fire Protection District. Before proceeding with the project, it is advisable to check with the Fire District located at 2010 Geary Road, Pleasant Hill, 925-930-5500.
9. If the project site is located within an area subject to covenants, conditions, and restrictions (CC&R's) administered by a homeowners' association, additional requirements and/or approvals may be required by the homeowners' association. Before proceeding with the project, it is advisable to check with the homeowners' association to ensure any applicable requirements are met.

EXHIBITS

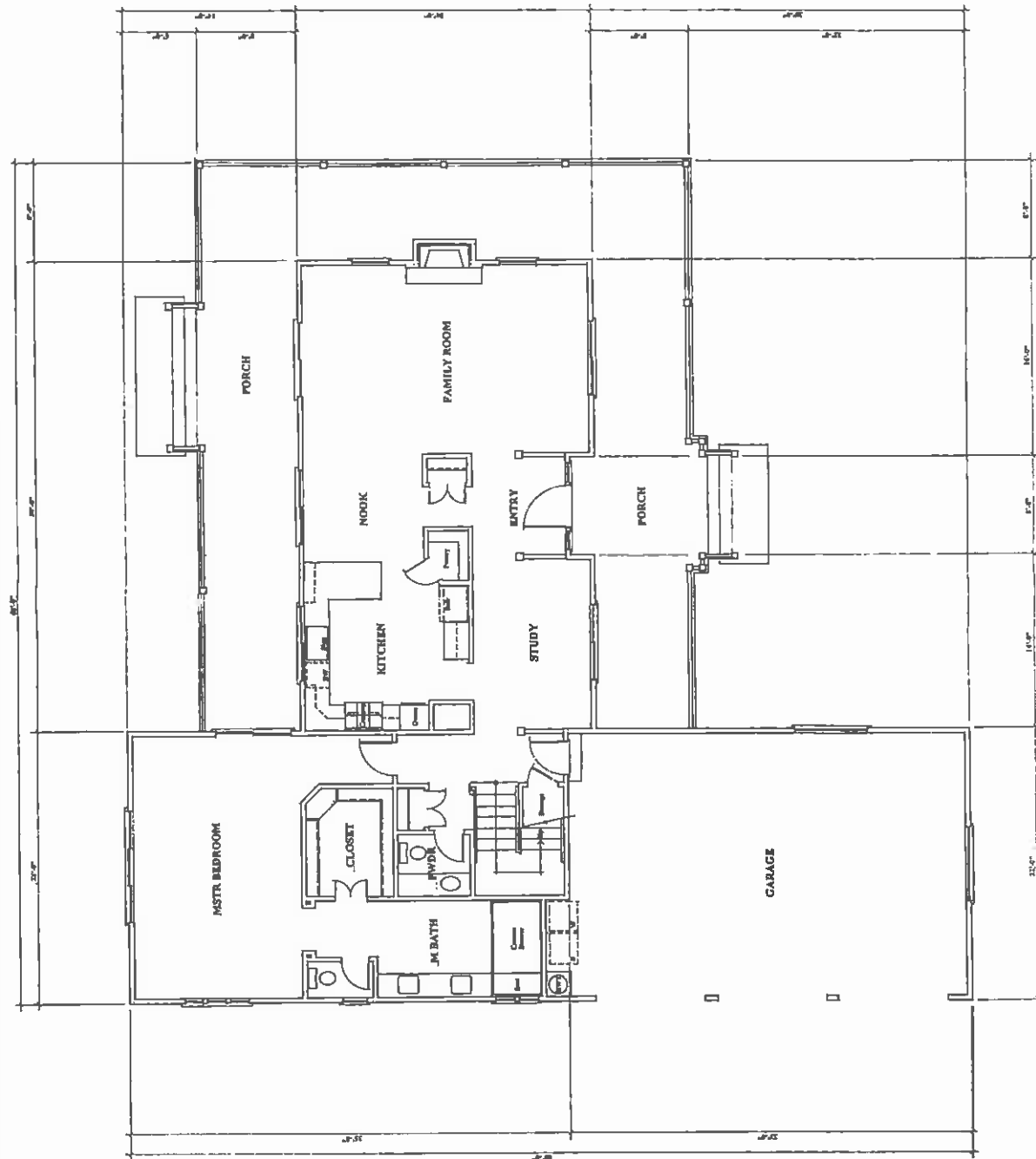
- A Location Map
- B Guttry Residence Site Plan, Roof Plan, Floor Plan, and Architectural Elevations, prepared by Robert C. Kendall & Associates, date stamped November 13, 2008
- C Guttry Residence Colors and Materials Board, prepared by Robert C. Kendall & Associates, date stamped November 13, 2008 [to be distributed at the November 25, 2008 Planning Commission meeting]

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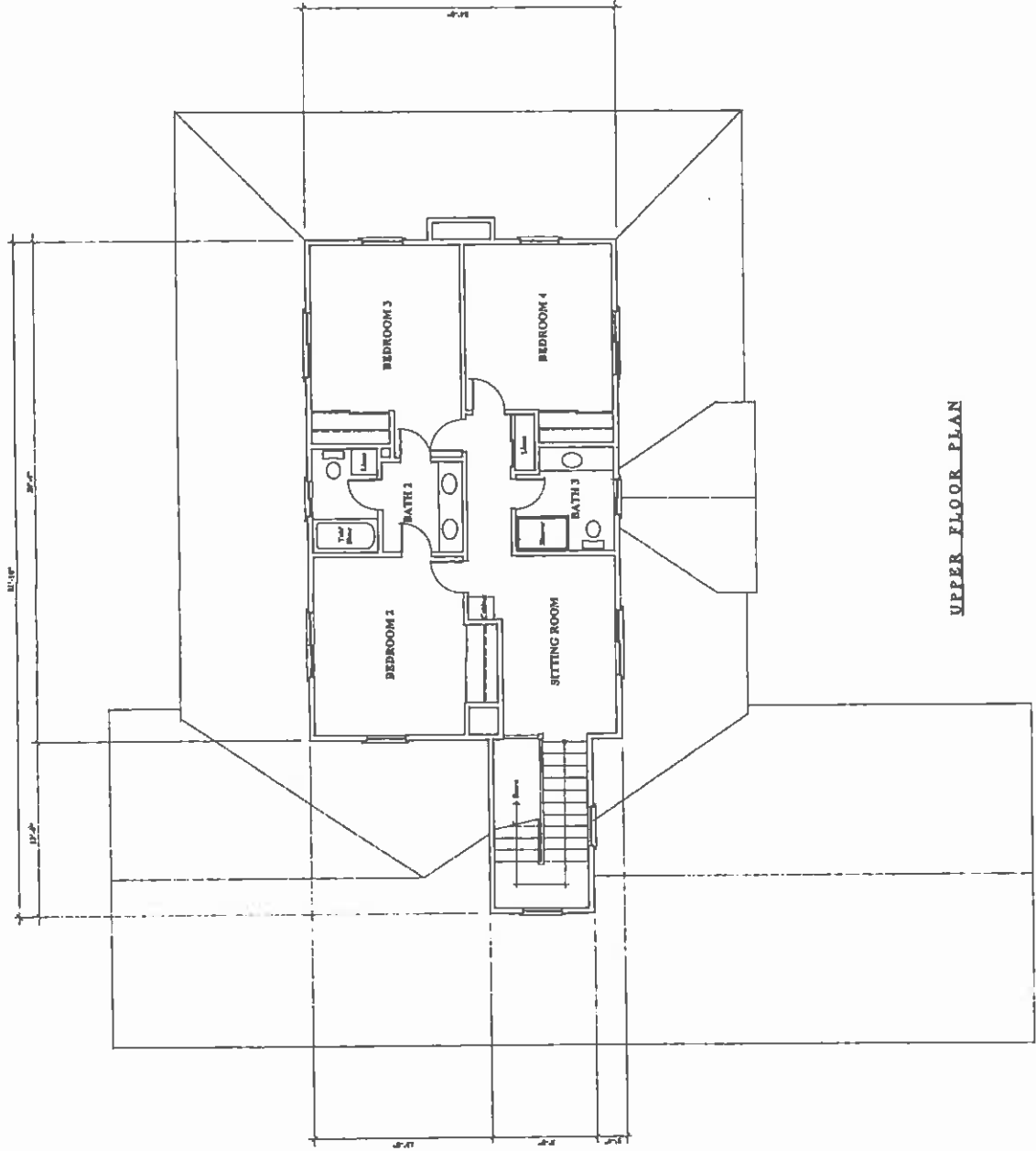
Location Map
5571 Morningside Drive
APN 118-110-010

EXHIBIT A



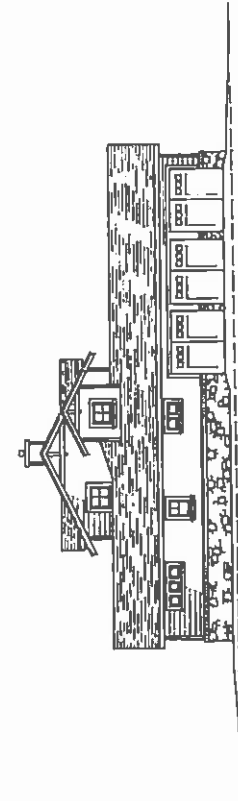
HOUSE AREA	
Main Floor Living Area	1663 sf
Upper Floor Living Area	1028
Total Living Area	2693
Garage	248
Total Finished Area	3435
Porch	945
Total	4391 sf

GUTTRY RESIDENCE		3571 HOBBSIDE DRIVE, CLAYTON, CA	
DATE: 10-1-80	DESIGNED BY:	DATE: 10-1-80	BY: 10-20
SHERY C. KERNALLY & ASSOCIATES		CONCEPT ARCHITECTURAL AND INTERIORS	
2000 Broadway, Suite C, San Francisco, CA 94115			

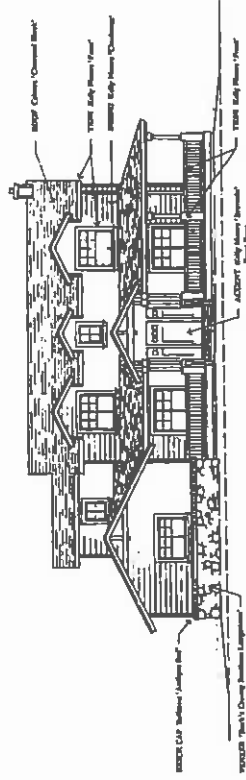


UPPER FLOOR PLAN

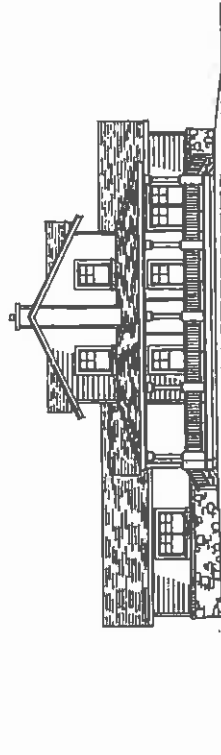
GUTTERY RESIDENCE			
SITI HOUSING, INC., CLAYTON, CA			
Scale: 1/4" = 1'-0"	Sheet No.	Sheet 10	10
Date: 07-11-2008	Drawn by: J. J. J. J.	Checked by: J. J. J. J.	10
CONSULTING ARCHITECTS AND CIVIL ENGINEERS			
1000 10th Street, Suite 100, Clayton, CA 94520			



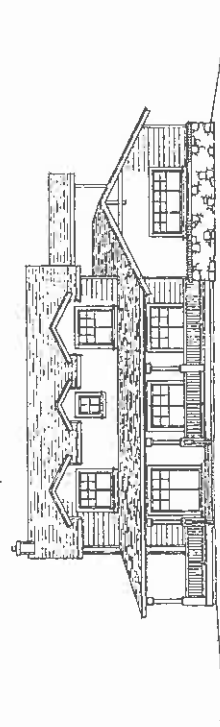
WEST ELEVATION



SOUTH ELEVATION



EAST ELEVATION



NORTH ELEVATION

PLANNING COMMISSION STAFF REPORT

Meeting Date: December 18, 2008

From: Milan J. Sikela, Jr. 
Assistant Planner

Subject: Appeal of Home Occupation Permit for Brian Johnston
(HOP 21-08)

REQUEST

An appeal of an administrative decision to approve a Home Occupation Permit for applicant Brian Johnston to operate a plumbing business from a single-family residence. The appellant is Gerald Kosel.

APPLICANT/APPELLANT/PROJECT INFORMATION

Applicant/Location: Brian Johnston
1216 Buckeye Terrace
APN 118-470-032 (see **Exhibit A** for Vicinity Map)

Appellant/Location: Gerald Kosel
1070 Feather Circle

General Plan Designation: High Density - Single Family Residential (5.1 to 7.5 units per acre).
This proposal complies with the *General Plan* designation.

Zoning: Planned Development – PD.

Environmental Clearance: Categorically exempt per Section 15301 of the State CEQA Guidelines.

Public Notice: On December 8, 2008, a public hearing notice was mailed to property owners within 300 feet of the site. To date, no comments have been received by staff.

Authority: Section 17.71.020.C of the *Zoning Ordinance* authorizes the Planning to review an appeal of an administrative decision.

Section 17.71.030 of the *Zoning Ordinance* authorizes the Planning Commission to approve a Home Occupation Permit which meets the standards of approval in Section 17.71.030.B.

BACKGROUND INFORMATION AND ANALYSIS

On November 17, 2008, staff approved a Home Occupation Permit for operation of a plumbing business from a single-family residence, in accordance with Sections 17.71.020.A and 17.71.020.B of the Municipal Code (see **Exhibit B** for Home Occupation Permit Application and **Exhibit C** for Notice of Decision). On December 1, 2008, an appeal of the administrative decision was filed by James Rigdon (see **Exhibit D** for appeal).

Appeal

The appeal lists the following grounds. The grounds are printed in **bold**. Staff comments are provided in standard typeface.

Section 5. “No persons shall be employed, except the applicant and members of the resident family...”. COMMENT – Mr. Johnston has more than one commercial vehicle (CA Lic #'s BLFSTPL and LEAPFROG). Sometimes both vehicles are located at the residence and sometimes only one. It appears that Mr. Johnston has at least one other employee which violates this clause.”

Section 17.71.020.B.5 of the Municipal Code lists the following standard of approval to be used by staff during administrative review of a home occupation permit as follows:

“No persons shall be employed, except the applicant and members of the resident family, in the conduct of the home occupation permit.”

On the application form for the administratively-reviewed home occupation permit, a series of questions are listed for the applicant to answer either “yes” or “no”. The questions are worded in such a way to directly respond to the standards of approval in Section 17.71.020.B. In this case, the question that appeared on the application that relates to Section 17.71.020.B.5 is worded:

“Will there be any persons, other than the applicant and members of the resident family, involved in the conduct of the home occupation?”

The applicant answered “no”. Based on this response, the home occupation complied with the standard listed in Section 17.71.020.B.5.

Section 7. “There shall be no signage or exterior indication of the home occupation”. Although the house itself has no signage, the trucks are parked at the residence day and night, except when it is assumed that they are away on jobs. The trucks are prominently marked “Belfast Plumbing”.

Section 17.71.020.B.7 of the Municipal Code lists the following standard of approval to be used by staff during administrative review of a home occupation permit as follows:

“There shall be no signage or exterior indication of the home occupation.”

The application form lists the following question:

“Will there be signage or any exterior indication of the home occupation?”

The applicant answered “no”. Based on this response, the home occupation complied with the standard listed in Section 17.71.020.B.7. Furthermore, Clayton’s Sign Provisions do not regulate signage on vehicles. Staff researched the issue with the Clayton Police Department and found that the California Vehicle Code does not prohibit signage on vehicles unless it is offensive, vulgar, or profane.

Section 8. The trucks constitute “outside display”.

Section 17.71.020.B.8 of the Municipal Code lists the following standard of approval to be used by staff during administrative review of a home occupation permit as follows:

“There shall be no outside display or storage of goods and materials.”

The application form lists the following question:

“Will there be any outside display or storage of goods and materials?”

The applicant answered “no”. Based on this response, the home occupation complied with the standard listed in Section 17.71.020.B.8. Furthermore, as indicated above, the parking of business vehicles in front of a residence does not constitute outside display of goods and materials as long as the parking of the vehicles does not violate City standards or the California Vehicle Code.

Section 11. “The home occupation shall not decrease the number or size of parking spaces below that needed to meet the minimum off-street parking requirements for the residence”. While the City has no jurisdiction, nor perhaps any interest in, the CC&R’s of the Homeowners Association, there are restrictions within the CC&R’s against any commercial vehicles parked either on the street or in driveways. In any event, the residents have more vehicles than can be parked properly on areas designated for their vehicles.

Section 17.71.020.B.11 of the Municipal Code lists the following standard of approval to be used by staff during administrative review of a home occupation permit as follows:

“The home occupation shall not decrease the number or size of parking spaces below that needed to meet the minimum off-street parking requirements for the residence.”

The application form lists the following question:

“Will the home occupation decrease the number or size of parking spaces below that needed to meet the minimum off-street parking requirements for the residence (i.e., 4 spaces for a single-family residence, 2 spaces for a multi-family residence)?

The applicant answered “no”. Based on this response, the home occupation complied with the standard listed in Section 17.71.020.B.11. Furthermore, violations of Codes, Covenants, and

Restrictions are not in the City's jurisdiction but, rather, are a civil matter between the property owner and the Homeowners Association. Nevertheless, the applicant must satisfy the City's requirement to provide the described four off-street parking spaces.

Conclusion

At the time that staff reviewed the applicant's answers as related to the standards of approval listed in Section 17.71.020.B, the home occupation appeared to comply with all of the standards of approval for administrative review of home occupations. As a result, staff approved the home occupation permit.

Staff discussed the Grounds of Appeal with the applicant. The applicant indicated to staff that, regarding the first Ground relating to employees, the only members employed is the applicant and his father. Also, the applicant indicated that four parking spaces (two covered [within the garage] and two uncovered [tandem in the driveway]) are available and have not been affected by the parking of the company vehicles.

If the Planning Commission wishes to deny the appeal and approve the home occupation permit, a condition could be added as follows:

"The garage at the subject residence shall be available and used on a continuous basis for parking two vehicles."

These covered parking spaces would assist in reducing parking impacts to the neighborhood.

As for the concerns over non-family members working for the home occupation and/or visiting the residence, a condition could also be added as follows:

"If staff receives any further complaints from members of the public by April 1, 2009, the Planning Commission shall review the home occupation at or before the meeting of May 26, 2009, with all costs generated by staff (i.e., time and materials) to be incurred by the applicant. At that time, the Planning Commission may establish additional conditions, as deemed necessary, to allow the business to continue with existing conditions, or initiate the process for revoking the Home Occupation Permit."

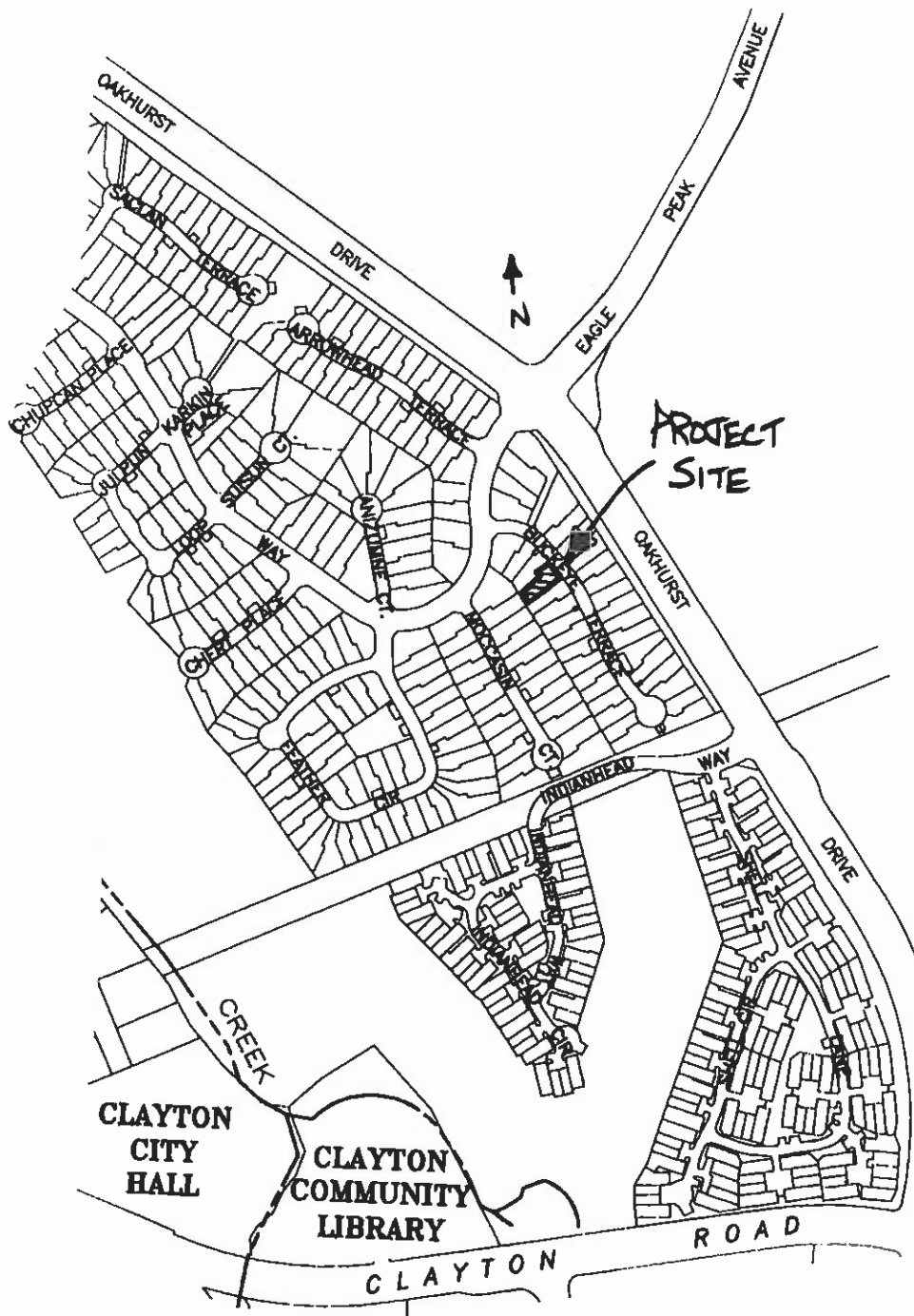
RECOMMENDATION

Staff recommends that the Planning Commission take public testimony and, based on the information and evidence received, either uphold or deny the appeal.

EXHIBITS

- A Vicinity Map
- B Home Occupation Permit Application filed by Brian Johnston, dated October 31, 2008
- C Community Development Department Notice of Decision, dated November 17, 2008
- D Appeal submitted by Gerald Kosel, dated December 1, 2008

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Location Map
1216 Buckeye Terrace
APN 118-470-032

EXHIBIT A

City of Clayton
HOME OCCUPATION PERMIT APPLICATION
Administrative Review

File HOF 21-08

APPLICANT INFORMATION

Name(s) Brian Johnston
Address 1216 Buckeye Terrace Clayton 94517
Day Phone 925-457-5423 Cell Same Fax 925-672-6295

SITE INFORMATION

Address Same
Assessor's Parcel Number 118-470-032
Zoning District _____

This application is only valid for the above address and is not transferable to a different address. The dwelling unit must be located in an Agricultural, Residential, or Planned Development (Residential) District.

STATEMENT OF OPERATION

Name of business Belfast Plumbing
Type of activities Installations and Repairs of Plumbing

Days and hours of operation 8-5 6 days a week

APPLICANT'S VERIFICATION

I (We) hereby declare under penalty of perjury under the laws of the State of California that the information in this application, questions answered, and its attachments are true, complete, and correct.

SIGNATURES

[Signature] 10-31-08
Applicant Date

Property Owner Date

For questions contact:
Community Development Department
6000 Heritage Trail
Clayton, CA 94517
925/ 673-7340 Voice
925/ 672-4917 Fax

Masters\Applications\HOF-Admitt (Revised 6/3/05)

Staff Use Only

Permit Fee \$100.00
Receipt No. 021849
By (Initials) RLH
Date Stamp

10/31/08

EXHIBIT B (2 PAGES)

HOME OCCUPATION PERMIT APPLICATION

Administrative Review

Applicant Name

Brian Johnston

Purpose

The purpose of a home occupation permit is to allow residents in a residential district to conduct limited commercial activities within their residence. These activities must be subordinate and incidental to the residential use of the property.

Please answer the following questions:

Yes No

- ☒ ☐ Will the home occupation be subordinate and incidental to the primary use of the dwelling unit for residential purposes?
- ☒ ☐ Will the home occupation be compatible with and not change the character of adjacent residential areas?
- ☐ ☒ Will all merchandise or services be produced on the premises and shipped directly, electronically, or sold at another location?
- ☐ ☒ Will the home occupation use more than 1 room, or 25 percent of the habitable floor area of the principal structure, whichever is greater? (Garage areas and living areas within accessory structures and secondary dwelling units are not considered as part of the habitable floor area of the principal structure.)
- ☐ ☒ Will there be any persons, other than the applicant and members of the resident family, involved in the conduct of the home occupation?
- ☐ ☒ Will there be signage or any exterior indication of the home occupation?
- ☐ ☒ Will there be any outside display or storage of goods or materials?
- ☐ ☒ Will the home occupation create any noise, odor, dust, fumes, vibrations, electrical interference, or other interference with the residential use of adjacent areas?
- ☐ ☒ Will there be use of utilities or community facilities beyond that normal to the residential use of the property?
- ☐ ☒ Will the home occupation decrease the number or size of parking spaces below that needed to meet the minimum off-street parking requirements for the residence (i.e., 4 spaces for a single-family residence, 2 spaces for a multi-family residence)?
- ☐ ☒ Will there be any chemicals or hazardous materials used or stored on the property which exceed that associated with normal household activities or hobby uses?
- ☐ ☒ Will there be any use of materials or mechanical equipment which exceeds that associated with normal household activities or hobby uses?

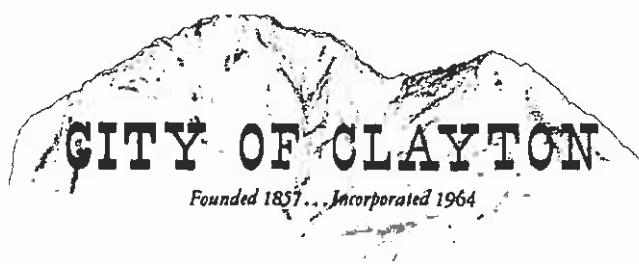
1
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How many delivery vehicles (e.g., postal service, parcel deliveries, pickup trucks, or light vans) will make deliveries or pick-ups to the home per day?

How many clients and/or students will visit the residence per week?

Decision/ Appeals

This application may be approved, approved with conditions, or denied. A Notice of Decision will be mailed to the applicant and to all property owners within 300 feet. This permit may be appealed to the Planning Commission within ten days of the Notice of Decision.



6000 Heritage Trail • Clayton, California 94517
925-673-7300 • Fax 925-672-4917

HOME OCCUPATION PERMIT NOTICE OF DECISION

The Community Development Director has processed the following application for an Administrative Home Occupation Permit in accordance with Clayton Municipal Code Section 17.71.020. The purpose of the home occupation permit is to allow residents to conduct limited commercial activities within their residence. This Notice of Decision is mailed to the applicant and to all property owners within 300 feet of the applicant's residence. This Notice of Decision will become final unless an appeal is received by the Community Development Department within ten (10) days of date on this Notice.

Notice of Decision Date	November 17, 2008
File	HOP 21-08
Applicant	Brian Johnston
Name of Business	Belfast Plumbing
Address	1216 Buckeye Terrace Clayton, CA 94517
Assessor Parcel Number	118-470-032
Business Activities	Plumbing Contractor (Installations and Repairs)
Hours and Days of Operation	Monday through Saturday as needed (8 am to 5 pm) (Office Only)

Standards of Approval:

1. The home occupation shall be subordinate and incidental to the primary use of the dwelling unit for residential purposes.
2. The home occupation shall be compatible with and not change the character of adjacent residential areas.
3. The dwelling unit shall be located in an Agricultural, Residential, or Planned Development (Residential) District.
4. The home occupation shall not use more than one (1) room, or twenty-five percent (25%) of the habitable floor area of the principal structure, whichever is greater. Garage areas and living areas within accessory structures and secondary dwelling units shall not be considered as part of the habitable floor area of the principal structure.
5. No persons shall be employed, except the applicant and members of the resident family, in the conduct of the home occupation.
6. There shall be no merchandise or services for sale, except that produced or made on the premises, and which can be shipped directly, electronically, or sold at another location.
7. There shall be no signage or exterior indication of the home occupation.
8. There shall be no outside display or outside storage of goods or materials.

EXHIBIT C (2 PAGES)

9. The home occupation shall not create any noise, odor, dust, fumes, vibrations, electrical interference, or other interference with the residential use of adjacent areas.
10. There shall be no use of utilities or community facilities beyond that normal to the residential use of the property.
11. The home occupation shall not decrease the number or size of parking spaces below that needed to meet the minimum off-street parking requirements for the residence.
12. Delivery vehicles shall be limited to those types of vehicles, which typically make deliveries to residential neighborhoods, such as postal service, parcel deliveries, pickup trucks, and light vans. A maximum of four deliveries per day is allowed.
13. The home occupation shall not generate client/student traffic to the residence.
14. Any chemicals or hazardous materials used or stored on the property shall not exceed that associated with normal household activities or hobby uses.
15. Any use of materials or mechanical equipment shall not exceed that associated with normal household activities or hobby uses.

This home occupation permit is only valid for the address listed on this notice and is not transferrable to another address.

Appeal Process: This decision may be appealed by filing an appeal form with a \$25.00 appeal fee at the Community Development Department by 5:00 p.m. on **December 1, 2008**. If this decision is appealed, the application will be scheduled for a Planning Commission public hearing. Please contact the Community Development Department at 925-673-7340 if you have any questions regarding the Home Occupation Permit application or the appeal process.

Chapter 5.04 of the *Clayton Municipal Code* requires that all persons doing business within the City of Clayton (including home occupations) to obtain a business license. Please contact me at 925-673-7300 for additional information on obtaining a City business license.



Rita Howe, Administrative Assistant
Code Enforcement Officer

**CITY OF CLAYTON
APPEAL OF AN ADMINISTRATIVE DECISION**

Appellant's Name GERALD E. KOSEL Day Phone 925-673-1060

Appellant's Address 1070 FEATHER CIRCLE, CLAYTON, CA. 94517

Appellant's interest in the project (e.g., applicant, neighbor, etc.) PRESIDENT, HOMEOWNERS ASSOC.

Appellant's Signature Gerald E Kosel

File No. HOP 21-08

Date of Administrative Decision on Project (Appeal must be filed within 10 calendar days) NOV. 17, 2008

Specify the grounds of the appeal (Additional sheets may be attached, if necessary)

PLEASE SEE ATTACHED SHEET -

Appeal Fee Paid \$25.-

Date Received Stamp

Receipt Number 021087

By [Signature]

RECEIVED

DEC 1 2008

CLAYTON COMMUNITY
DEVELOPMENT DEPT.

EXHIBIT D
(2 PAGES)

RECEIVED

DEC 1 2008

**CITY OF CLAYTON
APPEAL OF AN ADMINISTRATIVE DECISION**

RE: HOME OCCUPATION PERMIT NOTICE OF DECISION

**CLAYTON COMMUNITY
DEVELOPMENT DEPT.**

For Applicant Brian Johnston
Name of Business – Belfast Plumbing
Address – 1216 Buckeye Terrace
Clayton, CA 94517

Grounds of the Appeal

I, Gerald E. Kosel, as President of the Oak Hollow II Homeowners Association, am filing this appeal on behalf of the residents of the association.

It is our contention that Mr. Johnston does not meet the Standards of Approval for a Home Occupation Permit and that he should either bring himself into compliance or, if he is unable or unwilling to do that, that the Permit be denied.

Specifically, with reference to the Standards of Approval:

Section 5. "No persons shall be employed, except the applicant and members of the resident family" .COMMENT – Mr. Johnston has more than one commercial vehicle (CA Lic. #'s BLFSTPL and LEAPFROG). Sometimes both vehicles are located at the residence and sometimes only one. It appears that Mr. Johnston has at least one other employee which violates this clause.

Section 7. "There shall be no signage or exterior indication of the home occupation". Although the house itself has no signage, the trucks are parked at the residence day and night, except when it is assumed that they are away on jobs. The trucks are prominently marked "Belfast Plumbing".

Section 8. The trucks constitute "outside display".

Section 11. "The home occupation shall not decrease the number or size of parking spaces below that needed to meet the minimum off-street parking requirements for the residence". While the City has no jurisdiction, nor perhaps any interest in, the CC&R's of the Homeowners Association, there are restrictions within the CC&R's against any commercial vehicles parked either on the street or in driveways. In any event, the residents have more vehicles than can be parked properly on areas designated for their vehicles.

Gerald E. Kosel

MEMORANDUM

DATE: December 12, 2008
TO: Planning Commission
FROM: Milan J. Sikela, Jr. *MS*
Assistant Planner
SUBJECT: Continuance of the Clayton Station Site Plan Review Permit (SPR 08-08)

The applicant for the Clayton Station Site Plan Review Permit has requested a continuance of the public hearing to the Planning Commission meeting of January 13, 2009.

Attachment: E-mail from Banducci Associates Architects, Inc., received on December 11, 2008

SPR\2008\08-08.memo1

Milan Sikela

From: Dave Banducci [d.banducci@baarchitects.com]
Sent: Thursday, December 11, 2008 3:05 PM
To: msikela@ci.clayton.ca.us
Subject: RE: Planning Commission Mtg.

Hi Milan,

As we discussed, I would like to request a continuance for the review of our exterior renovation project at the Clayton Station Shopping Center. We were scheduled for the Planning Commission meeting on 12/18/08, and would like to continue it to the meeting on 1/13/08.

Please let me know if you need anything further. Thank you.

david b. banducci, aia
principal/director of design
p 408.544.9560 ext. 102

BANDUCCI ASSOCIATES ARCHITECTS, INC.

ATTACHMENT