



Agenda
Planning Commission Meeting
7:00 P.M. on Tuesday, January 27, 2009
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 Catalano to report at the February 3, 2009 City Council meeting.

Public Comment

Approval of Minutes

- 2. Approval of minutes from the meeting of January 13, 2009.

Public Hearings

- 3A. **SPR 01-09, Site Plan Review Permit, Pete Wiesendanger, 5511 Southbrook Drive, APN 118-102-002.** A Site Plan Review Permit permit to allow the construction of a two-story addition on a single-story residence. The entire project measures approximately 1,486 square feet in area. The height of the two-story great room/master bedroom portion of the project measures approximately 23 feet and the height of the two-story "tower" component of the project measures approximately 34 feet.

Proposed Action: Approval, with conditions.

- 3B. **ZOA 02-08, Municipal Code Amendment, City of Clayton.** An amendment of Chapter 17.44 (Site Plan Review Permits) of the Clayton Municipal Code to allow for administrative review and approval of specified minor single-story additions to multi-story single family residences.

Proposed Action: Recommend City Council approval.

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, February 10, 2009.**

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
Thursday, January 13, 2009

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.

Commissioner Haydon asked Director Woltering to brief the Planning Commission on the City Council's discussion and action regarding the personal property sales ordinance.

Director Woltering summarized the City Council's discussion and action as follows:

- Certain Councilmembers were concerned about mixing garage and yard sales with other types of outdoor sales, including sales of items produced or made on the premises.
- Staff and the Assistant City Attorney cautioned the Councilmembers that equal protection provisions of the law make it difficult to differentiate items that may or may not be sold.
- Councilmembers questioned whether the Planning Commission had considered restricting the number of consecutive days that personal property sales could occur, given that a total number of six days of sales could occur, as proposed, in a calendar year.
- Staff responded that the Planning Commission's discussion focused more on the total number of days in a calendar year and hours that the sales could occur and that consecutive days had not been a specific topic of discussion.
- There was some sentiment from Councilmembers that the six days in a calendar year is excessive.
- The Council voted 4-1 to approve introduction and first reading of the ordinance as proposed by the Planning Commission, with the sense that, if needed, adjustments could be made in the future.

Chair Catalano asked if there was any public testimony at the City Council public hearing.

Director Woltering indicated the following:

- Jenny Lewis spoke during the City Council public hearing and indicated support for the proposed ordinance.
- Received a call from Jon Van Brusselen who was concerned that produce sales would be allowed. In response, he explained to Mr. Van Brusselen that the matter of allowing products produced on the premises was discussed and added at the December 9, 2008 Planning Commission meeting. Mr. Van Brusselen indicated that he had not been able to attend that meeting.

- Received a call from Channel 7 News and gave them a brief overview of what transpired at the City Council public hearing.
 - A brief article appeared in the Contra Costa Times regarding the City Council public hearing.
- 1B. Commissioner Haydon to report at the January 20, 2009 City Council meeting.

Approval of Minutes

2. Approval of minutes from the meeting of December 18, 2008.

Chair Catalano moved and Commissioner Haydon seconded a motion to approve the minutes from the meeting of December 18, 2008, as amended. The motion passed 5-0.

Chair Haydon recused himself from the meeting.

Public Hearings

3. **SPR 07-08, Site Plan Review Permit, Banducci Associates Architects**, Clayton Station, APNs 118-031-049/ -051/ -052/ -056/ -057. A Site Plan Review Permit to allow various minor modifications to the architecture, exterior colors, and awnings within the Clayton Station shopping center.

The public hearing was opened. Assistant Planner Sikela presented the staff report and explained that copies of the revised draft wording for proposed Condition 6 had been distributed to the Commissioners, applicant, and applicant's architect.

Director Woltering indicated that the revised draft wording for Condition 6 was more definitive and provided more clarity in terms of how the applicant can address the ongoing code enforcement issues related to the clean-up of Mount Diablo Creek, Cardinet Trail, and the facades of the Safeway building.

Commission questions and comments included:

- How would the revised proposed Condition 6 address the ongoing code enforcement issues? Director Woltering indicated that, by requiring the applicant to provide contractual evidence of regular clean-up to be performed by maintenance personnel, it would be a proactive way to address these ongoing issues.
- Want to avoid a situation where the City gets involved with contract enforcement. Director Woltering responded that City review of the contract is only to ensure that the maintenance work has been formally secured.
- Is there any other way to seek assurance from the applicant that the maintenance work is being done such as fines? Director Woltering indicated that there is presently a process in place involving letters being sent, then citations being issued, and then fines and penalties being assessed. However, this process generally takes weeks and months to attain results.
- Is there another way to address the ongoing code enforcement issues? Director Woltering indicated that revised proposed Condition 6 would streamline the process for attaining results and would allow for all involved parties to be more proactive in addressing these issues.

The public testimony period was opened.

Christopher Kretz, P.O. Box 580, Danville, identified himself as being part of Las Trampas Investments, property owners of Clayton Station, and indicated the following:

- I get calls from tenants at Clayton Station every day regarding the ongoing graffiti problem.
- I will talk to our property manager, Kathe Anderson, regarding the maintenance issues.
- Some of the vines planted on the rear of the Safeway building do not appear to be growing.
- The shopping carts in Mount Diablo Creek behind Safeway are a Safeway issue. I will contact Safeway about assisting in cleaning up the creek.
- The debris in Mount Diablo Creek is not necessarily caused by Clayton Station alone and, therefore, is not our only responsibility.
- We will do our best to ensure ongoing maintenance is performed with regard to removal of graffiti and clean-up of Mount Diablo Creek and Cardinet Trail.

Commission questions included:

- How are you going to deal with the shopping cart issue? Mr. Kretz responded that he would contact property manager Kathe Anderson to contact Safeway and oversee the clean-up of the shopping carts.
- What mechanism are you using to address the graffiti issue? Mr. Kretz responded that he has hired a contractor to paint the walls that are spray-painted with graffiti but that he is concerned that the graffiti clean-up costs will have to be shouldered by the tenants in Clayton Station.
- How many tenants do you have in Clayton Station? Mr. Kretz responded that approximately 35 to 40 tenants occupy Clayton Station.
- How is information distributed to the tenants in Clayton Station? Mr. Kretz responded that he tries not to bother his tenants but that he conducts monthly visits. He added that he may send individual letters to each of his tenants to inform them of the clean-up or other issues.
- Any concerns with the other conditions of approval proposed by staff? Mr. Kretz responded that he had no concerns and that he would do his best to comply all of the conditions.

Dave Banducci, 222 Railroad Avenue, Danville, identified himself as the architect of the project, distributed photographs of asymmetrical "creek rock" examples, and indicated the following:

- We agree with all of the conditions except for Condition 1.
- We prefer to use the brick veneer shown in Photosimulation 1 on Sheet AS-6 of Exhibit B in the January 13, 2009 staff report rather than the asymmetrical "creek rock" style preferred by staff.
- It was difficult to find a veneer that incorporated the asymmetrical "creek rock" appearance.

Commission questions included:

- Are there any plans to modify the low seat walls throughout Clayton Station? Mr. Banducci responded "no".
- Are you drastically changing the numbers on the clock face? Mr. Banducci responded that they are just doing a subtle upgrade of the clock numbers.
- What are the colors proposed for the signs at the entryway monument? Mr. Banducci responded that changes to sign colors are not part of this proposal and are a sign issue for Clayton Station to address with the City.
- Will there be a cap stone on the brick veneer? Mr. Banducci responded "yes".

Staff questions and comments included:

- How thick is the brick veneer? Mr. Banducci replied that the brick veneer is three-quarters of an inch thick.

- The asymmetrical “creek rock” veneer would visually integrate better with the asymmetrical “creek rock” appearance of the masonry treatments on the existing seat walls throughout Clayton Station.

Mr. Banducci indicated that the brick veneer has been commonly used on their projects in Danville, San Ramon, and Dublin.

Assistant Planner Sikela indicated that staff supports design features and materials that are unique to Clayton and represent our City.

The public testimony period was closed.

Chair Catalano, Vice Chair Hartley, and Commissioners Armstrong indicated the following:

- Agrees with almost every condition—including the revised wording proposed by staff for proposed. The one exception is that they do not support Condition 1.
- We feel the brick veneer is a better design style than the asymmetrical “creek rock” treatments.
- Condition 1 should be modified to approve the brick veneer treatments.

Commissioner Johnson indicated the following:

- Agrees with every condition, including the revised wording proposed by staff for Condition 6.
- Agrees with staff that Condition 1 should be worded to require the applicant to install the asymmetrical “creek rock” treatments.

Chair Catalano moved and Vice Chair Hartley seconded a motion to approve Site Plan Review Permit SPR 07-08, with the findings and conditions recommended by staff and with the following amended wording for Conditions 1 and 6. The motion passed 3-1 (No – Johnson).

- “1. The proposed masonry treatments shall utilize the design style as shown in Photosimulation 1 on Sheet AS-6 of Exhibit B in the January 13, 2009 staff report.**
- 6. All litter, shopping carts, and debris shall be removed from the Mount Diablo Creek corridor associated with the property on a regular basis. Additionally, all graffiti shall be removed from the property, including the walls of the Safeway building, above-ground transformer boxes, etc. In order to facilitate maintenance of the Mount Diablo Creek corridor (including the Cardinet Trail) associated with this property and the removal of graffiti, prior to issuance of a building permit the property owner shall provide evidence to the Community Development Director of an on-going maintenance contract to ensure the regular clean-up of the Creek corridor and the removal of graffiti. Moreover, within forty-eight (48) hours notice by the City of a concern regarding needed Creek clean-up or graffiti removal, the property owner shall address the matter to the satisfaction of the Community Development Director. To further address the prevention of graffiti at the property, prior to issuance of a building permit the property owner shall prepare for review, approval, and installation a planting plan for adding clinging vines to the rear and side walls of the Safeway building to fill gaps where prior plantings have not been successful to the satisfaction of the Community Development Director.”**

Old Business

4. None.

New Business

5. None.

Communications

6A. Staff.

None.

6B. Commission.

Commissioner Johnson indicated the following:

- Cannot report at the February 3, 2009 City Council meeting.
- The reason I voted against the Clayton Station Site Plan Review Permit was not because I was against the project but, rather, because I was against using the brick veneer treatments.

Adjournment

7. The meeting was adjourned at 8:28 p.m.

Submitted by
David Woltering, AICP
Community Development Director

Approved by
Tuija Catalano
Chair

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PLANNING COMMISSION STAFF REPORT

Meeting Date: January 27, 2009

From: Milan J. Sikela, Jr. *MS*
Assistant Planner

Subject: Pete Wiesendanger
Site Plan Review Permit (SPR 01-09)

REQUEST

Approval of a Site Plan Review Permit to allow the construction of a two-story addition on a single-story residence. This addition measures approximately 1,486 square feet in area and 34 feet in height.

PROJECT INFORMATION

Applicant / Location: Pete Wiesendanger
5511 Southbrook Drive
APN 118-102-002 (See **Exhibit A** for Location Map)

General Plan Designation: Low Density - Single Family Residential (1.1 to 3.0 units per acre). This proposal complies with the *General Plan* designation.

Zoning: Single Family Residential R-12 District (12,600 square-foot minimum lot area).

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

Public Notice: On January 16, 2009, 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.

DISCUSSION

The applicant has requested approval of a Site Plan Review Permit to allow the construction of a two-story addition on a single-story residence. The entire project measures approximately 1,486 square feet in area. The height of the two-story great room/master bedroom portion of the project measures approximately 23 feet and the height of the two-story "tower" component of the project measures approximately 34 feet. The addition will utilize a mixture of stucco, horizontal "hardiplank" siding, and pre-cast stone siding. The proposed roof pitch is a matching 4:12 on the two-story great room/master bedroom portion of the project and a 8:12 on the tower element. White trim is proposed for all existing and proposed windows and doors, dark brown accents are proposed for the existing and proposed fascia boards and gutters, and beige (or "taupe") coloring for the existing and proposed stucco and horizontal "hardiplank" siding. The site plan, roof plan, floor plan, and architectural elevations are provided as **Exhibit B**. The colors and materials board and project site/project site vicinity photographs taken by the applicant are provided as **Exhibit C**.

Setback Analysis

An analysis of project setbacks is provided below.

Required Setbacks	Existing Setbacks	Proposed Setbacks	Project Compliance
Front Setback 20'	South 20' 10"	South No Change	Yes
Side Setback 10' minimum 25' aggregate	West 8' 9" East 17' 6" Aggregate 26' 3"	West No Change East No Change Aggregate No Change	No* Yes Yes
Rear Setback 15'	North 40'	North 17' 5"	Yes

*See discussion below.

For the R-12 District, the minimum interior side setback is 10 feet. The existing residence has a left side setback of 8 feet, 9 inches. The residence was built in 1968 when, apparently, a side setback less than 10 feet was allowed. Therefore, the existing residence is a legal non-conforming structure. Since the addition will not impact the existing side setback, the non-conformity of the structure will not be increased.

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
9,708 sq ft*	2,880 sq ft	2,041 sq ft	2,795 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
9,708 sq ft*	4,640 sq ft	2,041 sq ft	3,527 sq ft	Yes

*See discussion below.

According to Section 17.04.110 of the Municipal Code, 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 11,688 square feet. An easement exists along the easternmost portion of the property for vehicular access. This access easement encompasses approximately 1,980 square feet of the property, thereby reducing the net lot area to 9,708 square feet.

Staff Concerns

While working with the applicant on this project, staff has had concerns that the variety of elements on the project are not integrated adequately: the mixture of window styles, siding types, differing roof materials and roof pitches. The discussion below specifically addresses these concerns.

Materials, Colors, and Roof Pitches

The existing residence has stucco siding. The applicant is proposing to install a mixture of stucco and horizontal “hardiplank” siding on the two-story great room/master bedroom portion of the project and a pre-cast stone treatment on the two-story tower component of the project. From staff’s perspective, greater integration would be provided if the two-story great room/master bedroom portion of the project utilized either all stucco or all horizontal siding. However, during a site inspection, staff observed that several residences in the neighborhood utilize a mixture of stone, stucco, and wood siding (see applicant photographs in **Exhibit C**). This mixture of siding types would appear to meet the Site Plan Review Permit finding in Section 17.44.040 of the Municipal Code which states that the project “need not be identical, but should be complementary with, adjacent existing structures in terms of materials, colors, size, and bulk.” As a result, staff has provided a condition that the two-story great room/master bedroom portion of the project and the existing single-story segment of the residence use matching base exterior colors in order to provide visual consistency.

Staff would like to note that the tower component is an original design concept that increases the articulation and presence of the project. With the unique, dynamic quality that the tower brings to the proposal, the pre-cast stone is an appropriate visual counterpoint that complements the residence. However, staff did have concerns that the proposed slate roof material proposed for the tower is not integrated with the 45-year composition shingle roof material proposed for the two-story great room/master bedroom portion of the project and the existing single-story segment of the residence. Furthermore, the tower utilizes an 8:12 roof pitch which differs from the 4:12 roof pitch on the existing residence and proposed for the remainder of the addition. After further consideration, staff concluded that the differing siding, roof materials, and roof pitch proposed for the tower served to

underscore the dynamic “stand-alone” element that the tower provides for the overall project. However, the Commission may wish to address this issue and provide direction to staff regarding additional conditions of approval.

Windows

Staff also had concerns that the project introduces vertical windows whereas the existing windows are generally horizontal. Aesthetically, staff prefers the vertical windows. Furthermore, staff understands that the vertical windows support the unique characteristics of the tower element. The Commission may wish to address this issue and provide direction to staff regarding additional conditions of approval to require greater uniformity of window elements as compared to what the applicant has proposed.

Conclusion

Staff has reviewed the design aspects of the proposed plans relative to the standards of review 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 01-09 to allow the construction of a two-story addition measuring approximately 1,486 square feet in area and 34 in height, subject to the findings of approval, conditions of approval, and advisory notes listed below.

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 Wiesendanger Residence Site Plan, Roof Plan, Floor Plan, and Architectural Elevations, prepared by Gary J. Moore, date stamped December 29, 2008; and the Wiesendanger Residence Colors and Materials Board, prepared by the applicant, date stamped January 22, 2009.

1. The applicant shall use matching colors for the horizontal “hardiplank” siding and stucco siding on the two-story great room/master bedroom portion of the addition as well as the stucco siding on the existing residence.
2. All new fencing installed at the project site shall comply with the fencing standards in Section 17.36.075 of the Municipal Code.
3. 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.

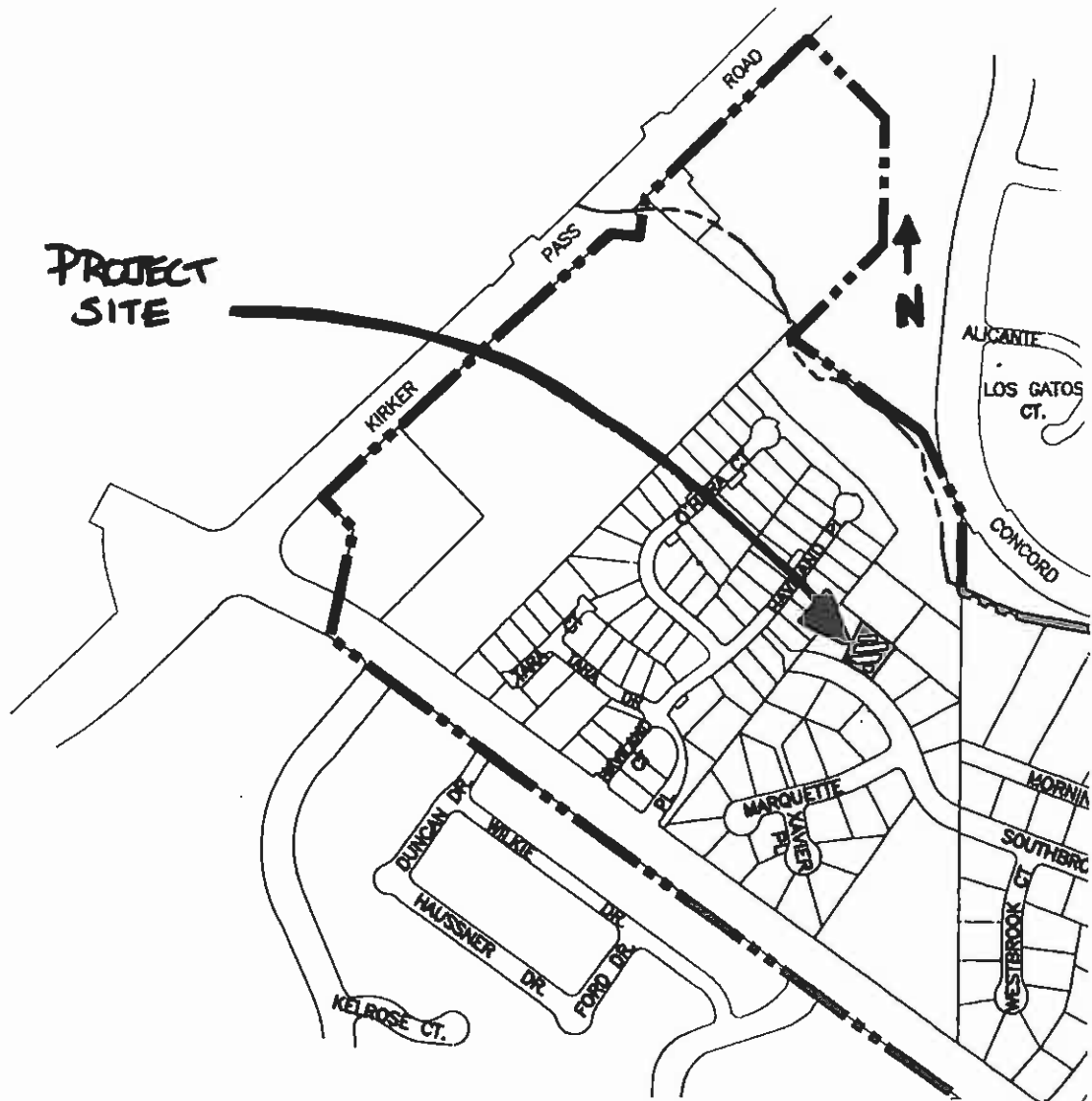
1. The applicant shall comply with all applicable state, county, and city codes, regulations, and adopted standards.
2. Prior to obtaining a building permit, the applicant shall prepare an erosion and stormwater control plan for review and approval by the City Engineer (CMC §13.12.050).
3. Prior to the 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. This Site Plan Review 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).
5. 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.
6. The applicant shall obtain the necessary building permits from the Contra Costa County Building Inspection Department.
7. 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.

8. 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

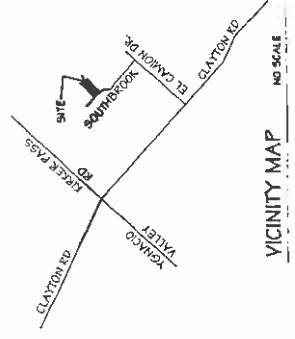
- A Location Map
- B Wiesendanger Residence Site Plan, Roof Plan, Floor Plan, and Architectural Elevations, prepared by Gary J. Moore, date stamped December 29, 2008
- C Wiesendanger Residence Colors and Materials Board, prepared by the applicant, date stamped January 22, 2009; and project site/project site vicinity photographs, taken by the applicant, date stamped January 22, 2009 [to be displayed at the January 27, 2009 Planning Commission meeting]

SPR\2009\01-09.sr1



Location Map
5511 Southbrook Drive
APN 118-102-002

EXHIBIT A



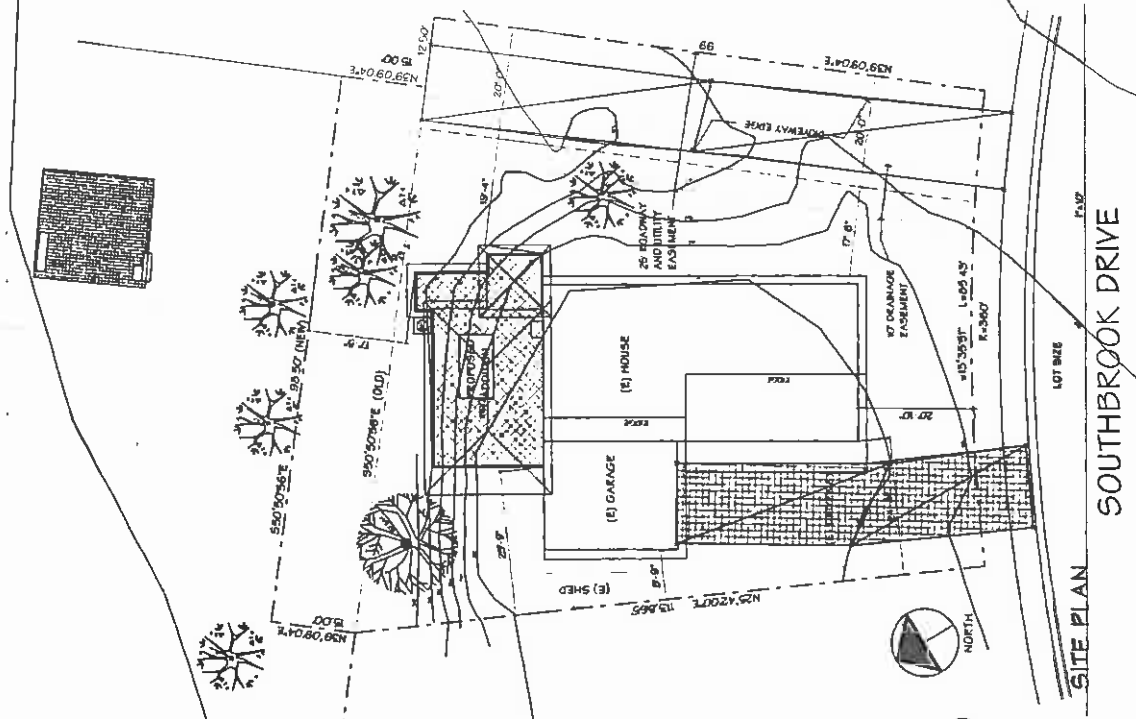
project data

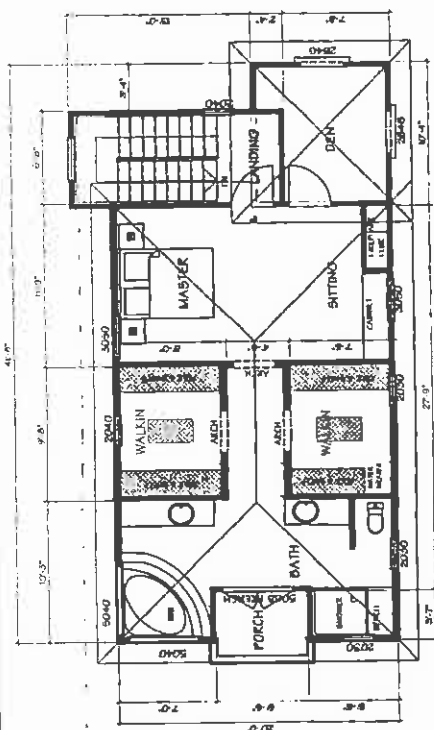
(E) FLOOR PLAN	1,582 S.F.
(N) 1ST FLOOR	754 S.F.
(N) 2nd FLOOR	732 S.F.
TOTAL	3,068 S.F.
(E) GARAGE	459 S.F.
LOT SIZE	11,688 S.F.
A.P.N.	118-102-002

RECEIVED

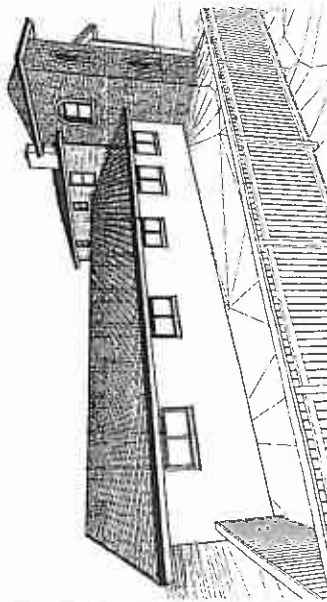
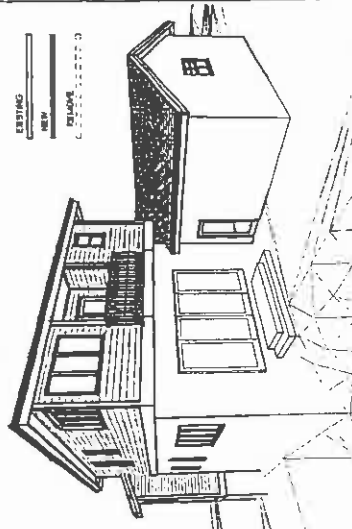
DEC 29 2008

CLAYTON COMMUNITY
DEVELOPMENT DEPT.



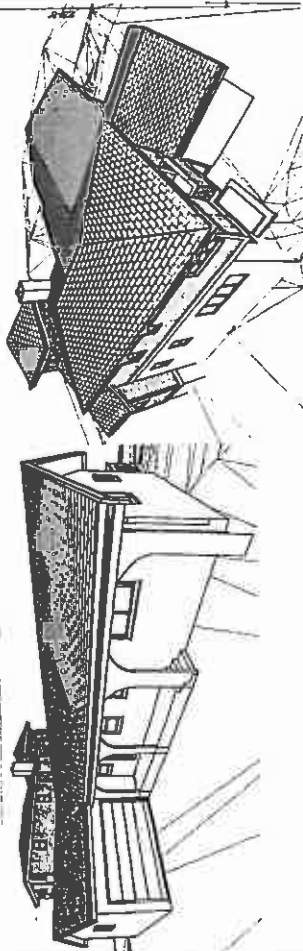
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SOUTHEAST ELEVATION



NORTHWEST ELEVATION

SOUTHWEST ELEVATION



SECOND FLOOR PLAN

1/4" x 1'-0"



RIGHT ELEVATION (EAST)

MATERIAL LIST

ROOFING: 45 YEAR "ELK" COMPOSITION SHINGLES
SLATE TILE ON TOWER "SLATE GRAY"

SLATE TILE ON TOWER "SLATE GRAY"
STUCCO: 3-COAT APPLICATION W/

STUCCO: 3-COAT APPLICATION W/
TWO 1/2" X 8" GRADE-D PAPER

TWO LAYER GRADE - D.
WINDOWS - DUAL PANE

WINDOWS-DUAL PANE

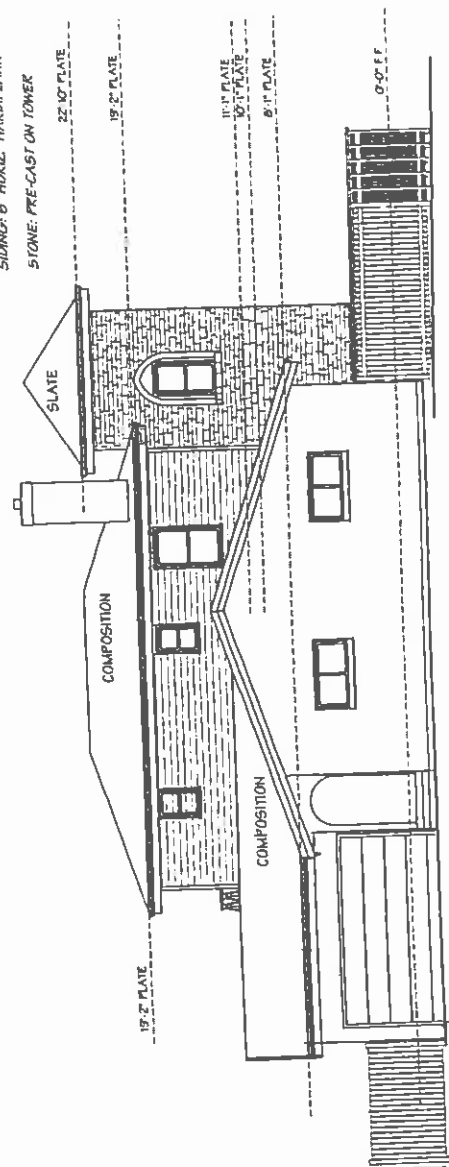
FASCIA: 2x12 W/5" G

FASCIA: 2x12 W/5" G3M BUTLER
BARGE: 1x6 O/2x12

BARGE: Lx6 012x12

SIDING: 6" HORIZ. HARDPLANK"

SIDING: 0 AXIAL, 1 PARALLEL

 $1/4'' \pm 1' \cdot 0''$

FRONT ELEVATION (SOUTH)

PLANNING COMMISSION STAFF REPORT

Meeting Date: January 27, 2009

From: David Woltering, Community Development Director 

Subject: Municipal Code Amendment to Clarify that the Provisions of Recently Adopted Ordinance No. 419 Allowing Administrative Approval of Specified Minor Additions Applies to Multi-Story Single-Family Residences as well as Single-Story Single-Family Residences (ZOA 02-08)

BACKGROUND

At its meeting of October 28, 2008, the Planning Commission considered and recommended that the City Council adopt an amendment to the Clayton Municipal Code to allow a greater level of administrative review and approval on minor additions to single-family residences. Essentially, the Planning Commission was recommending an amendment to Ordinance No. 311 which became codified into Chapter 17.44 of the Clayton Municipal Code. The Clayton City Council had adopted Ordinance No. 311 in November 1994 which established dimensional thresholds for Planning Commission review and approval of Site Plan Review permits. It was established that any construction exceeding 500 square feet in area and 12 feet in height would require Planning Commission review and approval. In recent years, it has become increasingly evident that, in terms of time and cost, the process of requiring Planning Commission review for certain minor additions to single family residences may be overly-burdensome to applicants. Consequently, the Planning Commission recommended to the City Council to increase the thresholds for Planning Commission review to over 750 square feet and over 16 feet in height or the extension of an existing single-story roofline for additions to single-family residences when the additions are along a rear or interior side yard elevation. Staff would be responsible for the review and approval of applications for additions below those thresholds.

The Planning Commission's recommended amendment was received and considered by the City Council at its meetings on November 18, 2008 and December 2, 2008. The Clayton Council formally adopted the amendment in the form Ordinance No. 419 (see **Attachment A**) at the December 2, 2008 meeting. Subsequently, at the City Council meeting of January 6, 2009, there was discussion among City Council members about whether Ordinance No. 419 was clear that administrative review and approval would apply to a minor addition meeting all the required criteria (e.g., up to 750 square feet in area, up to 16 feet in height or involving the extension of a single-story roofline, etc.) for single-story as well as multi-story single family residences. The City Council concluded that Ordinance No. 419 should be amended to clarify that administrative review and approval would apply to multi-story as well as single-story single-family residences that satisfy the stated criteria. Consequently, the Council directed staff to prepare and process an amendment to Ordinance No. 419 to provide the necessary clarification.

DISCUSSION

Staff has prepared a draft replacement ordinance to Ordinance No. 419. Language has been added to the replacement ordinance under Section 1.A that clarifies that the provisions apply to both multi-story and single-story single-family residences that satisfy the stated criteria (see **Attachment B**).

RECOMMENDATION

Staff recommends that the Planning Commission recommends that the City Council adopt the proposed replacement ordinance to Ordinance No. 419.

ATTACHMENTS

- A Ordinance No. 419
- B Draft Replacement Ordinance

ZOA\2008\02-08.sr3

ORDINANCE NO. 419

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLAYTON
AMENDING SECTION 17.44.020 (SITE PLAN REVIEW PERMIT REQUIRED) OF
THE CLAYTON MUNICIPAL CODE ALLOWING GREATER ADMINISTRATIVE
REVIEW AND APPROVAL OF SPECIFIED ADDITIONS TO RESIDENCES
(ZOA 02-08)**

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

THE CITY COUNCIL OF THE CITY OF CLAYTON FINDS AS FOLLOWS:

WHEREAS, Ordinance No. 311 was adopted by the Clayton City Council on February 15, 1994, which provides dimensional threshold requirements of 500 square feet in area and 12 feet in height for Planning Commission review and approval of site plan review permits; and

WHEREAS, there exists a need for streamlining the Site Plan Review Permit process to allow administrative review and approval for more routine residential construction applications, while still assuring that an adequate level of review occurs given that Standards of Review are stipulated in the Municipal Code; and

WHEREAS, an amended version of 17.44.020 has been prepared to modify the dimensional threshold requirements to allow administrative review of site plan review permits up to 750 square feet in area and 16 feet in height, generally; and

WHEREAS, Chapter 17.56 of the Municipal Code authorizes the City Council to amend Title 17 (Zoning) of the Municipal Code; and

WHEREAS, the Clayton Planning Commission held a duly-noted public hearing on October 28, 2008 on amending Section 17.44.020 of the Municipal Code; determined that the amendment would be in conformance with the General Plan; determined that the public necessity, convenience, and general welfare would require adoption of the amendment; and recommended City Council approval of the amendment; and

WHEREAS, on November 18, 2008 and December 2, 2008, the City Council held duly-noticed public hearings and gave due consideration to all testimony, comments, and documents received; and

WHEREAS, the public necessity, conveniences, and general welfare require the adoption of the following amendment; and

WHEREAS, the following amendments are in general conformance with the General Plan; and

WHEREAS, the following amendment of the Municipal Code are minor alterations of

land use limitations which would not result in any changes in land use or density and therefore qualify for categorical exemptions from the California Environmental Quality Act in accordance with Section 15305 of the State CEQA Guidelines; and

WHEREAS, there is no evidence that the amendments will have the potential for any individual or cumulative adverse effects on fish and wildlife resources or their habitat, as defined in Section 711.2 of the Fish and Game Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 17.44.020 of the Municipal Code is amended to read as follows:

"17.44.020 Site Plan Review Permit Required. A Site Plan Review Permit shall be required in any zoning District for the design of all new development within the City (new construction, remodeling, additions, etc.) that meets any of the following criteria:

- A. Construction (enclosed or unenclosed) over 16 feet in height except for an extension of an existing single-story roofline;
- B. Construction (enclosed or unenclosed) encompassing an area greater than 750 square feet;
- C. Construction (enclosed or unenclosed) proposed on a front and/or exterior side elevation measuring over 12 feet in height or encompassing an area of 500 square feet or greater;
- D. Construction over four (4) feet in height (other than fences) encompassing an area of ten (10) square feet or greater located within the upper two-thirds of a slope which exceeds either:
 - 1. A grade equal to or greater than 1 foot vertical to 4 feet horizontal, or
 - 2. A grade change greater than ten (10) feet; (Ord. 375, 2004)
- E. Any balcony, deck, or other similar structure, whose floor elevation is over 4 feet in height from the underlying grade encompassing an area of 10 square feet or greater;
- F. Retaining walls needing a building permit and observable from public streets and/or sidewalks;
- G. Construction that, in the judgement of the Community Development Director, does not comply with the purpose of this Chapter as stated above or with the standards of review as stated herein. (Ord. 311, 1994, Ord. 375, 2004, Ord. 325, 1996)"

SECTION 2. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

SECTION 3. Conflicting Ordinances Repealed. Any ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

SECTION 4. Effective Date and Publication. This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution by the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Section 1 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Clayton held on November 18, 2008.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular meeting thereof held on December 2, 2008, by the following vote:

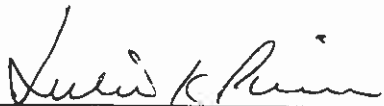
AYES: Mayor Pierce, Vice Mayor Stratford, Councilmembers Geller, Medrano and Shuey.

NOES: None.

ABSENT: None.

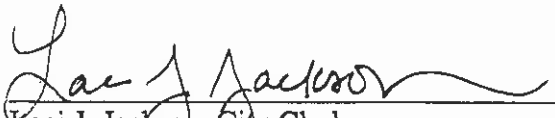
ABSTAIN: None.

THE CITY COUNCIL OF CLAYTON



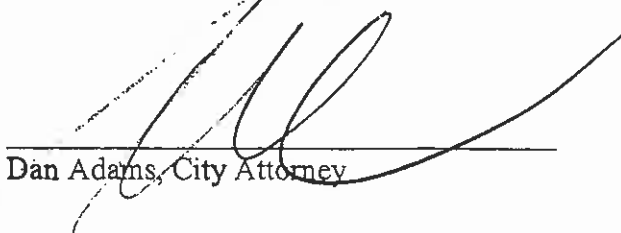
Julie K. Pierce, Mayor

ATTEST



Laci J. Jackson, City Clerk

APPROVED AS TO FORM



Dan Adams, City Attorney

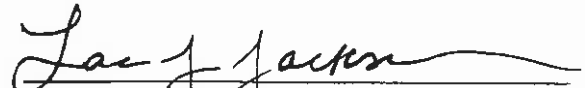
APPROVED BY ADMINISTRATION



Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a regular meeting of

the City Council of the City of Clayton held on November 18, 2008, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on December 2, 2008.


Laci J. Jackson, City Clerk

ZOA\2008\02-08.ord2

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLAYTON
SUPERSEDING AND REPLACING ORDINANCE NO. 419, AN ORDINANCE
AMENDING SECTION 17.44.020 (SITE PLAN REVIEW PERMIT REQUIRED) OF
THE CLAYTON MUNICIPAL CODE ALLOWING GREATER ADMINISTRATIVE
REVIEW AND APPROVAL OF SPECIFIED ADDITIONS TO RESIDENCES, FOR THE
PURPOSE OF ADDING CLARIFICATION THAT ALLOWING ADMINISTRATIVE
APPROVAL OF SPECIFIED MINOR ADDITIONS APPLIES TO MULTI-STORY
SINGLE-FAMILY RESIDENCES AS WELL AS SINGLE-STORY SINGLE-FAMILY
RESIDENCES
(ZOA 02-08)**

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

THE CITY COUNCIL OF THE CITY OF CLAYTON FINDS AS FOLLOWS:

WHEREAS, Ordinance No. 311 was adopted by the Clayton City Council on February 15, 1994, which provides dimensional threshold requirements of 500 square feet in area and 12 feet in height for Planning Commission review and approval of site plan review permits; and

WHEREAS, there exists a need for streamlining the Site Plan Review Permit process to allow administrative review and approval for more routine residential construction applications, while still assuring that an adequate level of review occurs given that Standards of Review are stipulated in the Municipal Code; and

WHEREAS, an amended version of 17.44.020 has been prepared to modify the dimensional threshold requirements to allow administrative review of site plan review permits up to 750 square feet in area and 16 feet in height, generally; and

WHEREAS, Chapter 17.56 of the Municipal Code authorizes the City Council to amend Title 17 (Zoning) of the Municipal Code; and

WHEREAS, the Clayton Planning Commission held duly-noted public hearings on October 28, 2008 and on January 27, 2009 on amending Section 17.44.020 of the Municipal Code; determined that the amendment would be in conformance with the General Plan; determined that the public necessity, convenience, and general welfare would require adoption of the amendment; and recommended City Council approval of the amendment; and

WHEREAS, on November 18, 2008, December 2, 2008, and on January 6, 2009, the City Council held duly-noticed public hearings and meetings and gave due consideration to all testimony, comments, and documents received; and

WHEREAS, the public necessity, conveniences, and general welfare require the adoption of the following amendment; and

WHEREAS, the following amendments are in general conformance with the General Plan; and

WHEREAS, the following amendment of the Municipal Code are minor alterations of land use limitations which would not result in any changes in land use or density and therefore qualify for categorical exemptions from the California Environmental Quality Act in accordance with Section 15305 of the State CEQA Guidelines; and

WHEREAS, there is no evidence that the amendments will have the potential for any individual or cumulative adverse effects on fish and wildlife resources or their habitat, as defined in Section 711.2 of the Fish and Game Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 17.44.020 of the Municipal Code is amended to read as follows:

“17.44.020 Site Plan Review Permit Required. A Site Plan Review Permit shall be required in any zoning District for the design of all new development within the City (new construction, remodeling, additions, etc.) that meets any of the following criteria:

- A. Construction, *whether to a single-story or a multi-story single-family residence* (enclosed or unenclosed) over 16 feet in height except for an extension of an existing single-story roofline;
- B. Construction (enclosed or unenclosed) encompassing an area greater than 750 square feet;
- C. Construction (enclosed or unenclosed) proposed on a front and/or exterior side elevation measuring over 12 feet in height or encompassing an area of 500 square feet or greater;
- D. Construction over four (4) feet in height (other than fences) encompassing an area of ten (10) square feet or greater located within the upper two-thirds of a slope which exceeds either:
 - 1. A grade equal to or greater than 1 foot vertical to 4 feet horizontal, or
 - 2. A grade change greater than ten (10) feet; (Ord. 375, 2004)
- E. Any balcony, deck, or other similar structure, whose floor elevation is over 4 feet in height from the underlying grade encompassing an area of 10 square feet or greater;
- F. Retaining walls needing a building permit and observable from public streets and/or sidewalks;
- G. Construction that, in the judgement of the Community Development Director, does not comply with the purpose of this Chapter as stated above or with the standards of review as stated herein. (Ord. 311, 1994, Ord. 375, 2004, Ord. 325, 1996)”

SECTION 2. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

SECTION 3. Conflicting Ordinances Repealed. Any ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

SECTION 4. Effective Date and Publication. This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution by the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Section 1 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Clayton held on November 18, 2008.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular meeting thereof held on December 2, 2008, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON

Julie Pierce, Mayor

ATTEST

Laci J. Jackson, City Clerk

APPROVED AS TO FORM

APPROVED BY ADMINISTRATION

Dan Adams, City Attorney

Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Clayton held on November 18, 2008, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on December 2, 2008.

Laci J. Jackson, City Clerk

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