



Agenda
Planning Commission Meeting
7:00 P.M. on Tuesday, March 24, 2009
Hoyer Hall, 6125 Clayton Road, Clayton

CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Administrative

- 1A. Review of agenda items.
- 1B. Commissioner Armstrong to report at the April 7, 2009 City Council meeting.

Public Comment

Approval of Minutes

- 2. Approval of minutes from the meeting of February 10, 2009.

Public Hearings

- 3A. **SPR 02-09, Site Plan Review Permit, Julie Pierce**, 1028 Tiffin Drive, APN 119-122-003. A Site Plan Review Permit to allow the construction of two single-story additions on an existing single-story residence. The entire project measures approximately 760 square feet in area and 13 feet in height.

Proposed Action: Approval, with conditions.

TRP 03-09, Tree Removal Permit, Julie Pierce, 1028 Tiffin Drive, APN 119-122-003. A Tree Removal Permit to allow the removal of seven trees.

Proposed Action: Approval, with conditions.

- 3B. **SPR 03-09, Site Plan Review Permit, Debbie Butler**, 3038 Miwok Way, APN 118-424-012. A Site Plan Review Permit to allow the construction of a second-story balcony on an existing two-story residence. The project measures approximately 238 square feet in area and 13 feet in height.

Proposed Action: Approval, with conditions.

Old Business

4. **SPR 01-09, Site Plan Review Permit, Pete Wiesendanger, 5511 Southbrook Drive, APN 118-102-002.** An update regarding the existing on-site shed complying with codes that were in effect at the time of shed construction. Verbal presentation to be provided at meeting.

Proposed Action: Receive information.

New Business

5. None.

Communications

- 6A. Staff.
- 6B. Commission.

Adjournment

7. The next meeting of the Planning Commission is scheduled for **Tuesday, April 14, 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
Tuesday, March 10, 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
City Attorney Dan Adams
Planning Consultant Nick Pappani
Assistant Planner Milan Sikela, Jr.

Administrative

1A. Review of agenda items.

1B. Commissioner Haydon to report at the March 17, 2009 City Council meeting.

Approval of Minutes

2. Approval of minutes from the meeting of February 10, 2009.

Chair Catalano moved and Commissioner Armstrong seconded a motion to approve the minutes from the meeting of February 10, 2009, as submitted. The motion passed 5-0.

Discussion Items

3. Presentation by City Attorney Dan Adams regarding Conflict of Interest standards.

Director Woltering provided an introductory overview and City Attorney Adams presented the report. Attorney Adams referenced and summarized key points in a publication that he had previously forwarded to the Commissioners entitled "Key Ethics Law Principles for Public Servants." In addition, Mr. Adams discussed the 500-foot rule wherein a Commissioner must excuse themselves from considering an application if the Commissioner has an ownership interest in a property with a value of \$2,000 or more within 500 feet of the site of the application being considered.

Commission questions included:

- What if a Commissioner rents a property within 500 feet of the project site? Attorney Adams responded that the Commissioner should contact the Fair Political Practices Commission for direction in that circumstance. He added that he did not think it would constitute a conflict of interest issue since the Commissioner did not own the property and, as a result, would not stand to gain anything by project approval.
- Should Commissioner Hartley have excused himself from the Clayton Station Site Plan Review Permit application since it only involved a remodel of the exterior colors and materials? Attorney Adams replied that, if the Commissioner owns real property with a fair market value of \$2,000 or more within 500 feet of the project site, the Commissioner then has a direct economic interest in the decision. As a result, he would have to recuse himself from the decision.

Attorney Adams emphasized that if a Commissioner is unsure about whether they have a conflict of interest, ultimately that determination would need to be made by the Fair Political Practices Commission (FPPC). He stated that this determination could not be made by other Commissioners, but only by the FPPC. He suggested that if a Commissioner requests a determination from the FPPC, that the Commissioner receive the determination in writing.

Public Hearings

4. **ENV 01-08, Development Plan, Komgold.** The proposed project site is located at 1005 and 1007 Oak Street (APNs 119-050-009 and 119-050-034) and includes a third parcel located west of Mitchell Creek (APN 119-050-008). The purpose of this item is to review and receive comments on the Rivulet Project Initial Environmental Study/Mitigated Negative Declaration (IES/MND), prepared in accordance with the California Environmental Quality Act. This report analyzes the potential impacts caused by the proposed project and identifies various measures to mitigate these impacts. The proposed Rivulet project involves the removal of two existing single-story modular buildings and the redevelopment of the site with a two-story, mixed-use building with approximately 7,000 square feet of retail space on the ground floor and seven (7) residential units on the second floor.

Director Woltering provided an introduction of the purpose of this agenda item as being to receive comments on the IES/MND environmental document and he described the process for adoption of the environmental document and the approval of the project. Planning Consultant Nick Pappani then provided an overview of the IES/MND, including the environmental findings of the document.

Commission comments and questions included:

- Will the addition of the third parcel satisfy landscaping and open space? Director Woltering indicated that staff believed it would.
- Will the residential units be sold or rented? Director Woltering said that the residential units could be either sold or rented.
- Who is responsible for preparing the Development Plan? Director Woltering answered that the applicant would be responsible.
- In reference to Mitigation Measure 1, the Commission asked who will monitor the air quality? Planning Consultant Pappani answered that the City Engineer would be monitoring the air quality.
- Does this air quality monitoring result in a weekly or bi-weekly report? Planning Consultant Pappani indicated that a weekly or bi-weekly report is not normally required, but can be conditioned. There is also a training program that is required.
- Regarding biology, it was suggested, in particular reference to Mitigation Measure 4, that a monitoring report requirement be added.
- Regarding cultural resources, what would happen if a resource is found? A training requirement should be added so that on-site construction personnel are familiar as to what to check for. This training could be part of a pre-construction meeting requirement.
- Regarding hydrology, the hydrology section should indicate the design objectives, including proposed plantings and erosion control measures, should be beneficial.
- If construction had been underway during rain, would there be measures to avoid negative downstream water quality impacts? Planning Consultant Pappani indicated that siltation fences and straw wattles would be installed. Laura Hoffmeister, Stormwater Manager for the City of Clayton, also addressed the Commission and indicated that after heavy rain events the City is required to inspect water quality devices to ensure that they are working properly.

- Will there be any impacts upon existing trail to Mount Diablo Elementary School, which is located adjacent to the project site? Planning Consultant Pappani indicated that there would be no impacts to the trail. We are trying to provide a seating area at the terminus of Center Street that is intended to block direct pedestrian/bicycle traffic across Mitchell Creek to and from the trail at that location.
- What is meant by general support from Department of Fish and Game (CDFG) representatives? Nick Pappani indicated that CDFG has indicated support for the proposed removal of invasive plants and the installation of native riparian vegetation to help protect Mitchell Creek and enhance the habitat there. Additionally, CDFG has indicated that the proposed project will not trigger the need for a Streambed Alteration Permit. Personal correspondence with a local Fish and Game representative is referenced in the Initial Environmental Study.
- Will property owner be responsible for C.3 Stormwater monitoring requirements? Planning Consultant Pappani indicated “yes” and referenced Mitigation Measure 12.
- Is it true that the number of species to be impacted is zero? Planning Consultant Pappani indicated, yes, since there is an existing physical impediment that prevents fish from coming upstream, and terrestrial vertebrates would not be impacted because of the mitigation measures required in the IES/MND .
- Does the third parcel west of Mitchell Creek include both the pedestrian bridge and vehicular bridge? Assistant to the City Manager Hoffmeister indicated that the pedestrian bridge is in the Mount Diablo School District and the vehicular bridge is part of an assessment district.
- Who is going to take care of the large leaning tree on-site? Planning Consultant Pappani indicated that risks for the tree will be transferred to the property owner.
- Will the stormwater requirements be the same as Flora Square? Planning Consultant Pappani answered that the approaches between Flora Square and the Rivulet project are essentially the same. Ms. Hoffmeister confirmed that the Flora Square project includes the same stormwater concepts into its system; for example–infiltration planters.
- So flood gate requirements will apply? Planning Consultant Pappani answered “yes.”
- Restaurant uses should be factored into the traffic study. Planning Consultant Pappani indicated that, given all of the studies, intersections would operate at either level of service (LOS) A or B even under the cumulative scenario. Changing the trip generation rate for the project from a general retail category to a more specific category pertaining to restaurant uses would not result in any intersection impacts. Planning Consultant Pappani indicated that he can have the traffic consultant run some numbers if the Commission so desires.
- Are all biological resources part of biological report? Planning Consultant Pappani answered “yes.”
- Did the traffic study take into consideration that the City of Clayton is encouraging restaurant usage in the downtown? Planning Consultant Pappani indicated that he would research further to respond to that question.
- Page 27 of the report should reference the Study that determined no presence of listed or threatened species on the site.
- Is a greenhouse gas emission impact analysis required? Ms. Hoffmeister indicated that the City Council is keeping up-to-date with this ever-changing issue and its associated regulatory environment. Given the lack of identified quantitative thresholds, Ms. Hoffmeister indicated that the Council is waiting for specific State directives.

The public testimony period was opened.

Jerry Davis, 6000 High Street, indicated the following:

- Will people be able to cross the vehicular bridge to gain access to the open space area west of Mitchell Creek? Planning Consultant Pappani indicated that open space area is not intended as active open space, but as a passive open space area.
- What right of way will be abandoned? Planning Consultant Pappani indicated that the terminus of Center Street is the right of way that will be abandoned.

There being no further public comment, the public testimony period was closed. Commission comments and questions included:

- Have you heard of other items that will result in revisions? Planning Consultant Pappani answered "no."

By Consensus, the Planning Commission asked if the comments received were sufficient for staff. Community Development Director Woltering indicated that, yes, the comments were sufficient and added that the comment period for the Rivulet IES/MND extends through until April 2, 2009.

Old Business

5. None.

New Business

6. None.

Communications

- 7A. Staff.
7B. Commission.

Adjournment

7. The meeting was adjourned at 9:30 p.m.

Submitted by
David Woltering, AICP
Community Development Director

Approved by
Tuija Catalano
Chair

Plng Comm\2009\Minutes\0310

PLANNING COMMISSION STAFF REPORT

Meeting Date: March 24, 2009

From: Milan J. Sikela, Jr. 
Assistant Planner

Subject: Julie Pierce
Site Plan Review Permit (SPR 02-09)
Tree Removal Permit (TRP 03-09)

REQUESTS

Approval of a Site Plan Review Permit to allow the construction of two single-story additions on an existing single-story residence. The entire project measures approximately 760 square feet in area and 13 feet in height.

Approval of a Tree Removal Permit to allow the removal of seven trees.

PROJECT INFORMATION

Applicant / Location: Julie Pierce
1028 Tiffin Drive
APN 119-122-003 (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.

Categorically exempt per Section 15061(b)(3) of the State CEQA Guidelines.

Public Notice: On March 11, 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.

Section 15.70.030.C of the *Municipal Code* authorizes the Planning Commission to approve a tree removal permit in accordance with the standards in Section 15.70.035.

SITE PLAN REVIEW PERMIT DISCUSSION

The applicant has requested approval of a Site Plan Review Permit to allow the construction of two single-story additions measuring a total of 760 square feet in area and 13 feet in height. The project entails construction of a third-car garage space and bedroom/study addition. The garage addition has been designed with matching exterior horizontal wood siding, stucco siding, brick veneer, and composition shingle roof material. The bedroom/study addition has been designed with matching exterior stucco siding and composition shingle roof material. Both additions have been designed with a matching 4:12 roof pitch. The site plan, roof plan, floor plan, and architectural elevations have been provided as **Exhibit B**.

Setback Analysis

An analysis of project setbacks is provided below.

Required Setbacks	Existing Setbacks		Proposed Setbacks		Project Compliance
Front Setback 20'	West	43' 5"	West	33' 5"	Yes
Side Setback 10' minimum	South	10'	South	No Change	No*
	North	14'	North	No Change	Yes
25' aggregate	Aggregate	24'	Aggregate	No Change	No*
Rear Setback 15'	East	18'	East	No Change	Yes

*See discussion below.

For the R-12 District, the minimum interior side setback is 10 feet. The existing residence has a north side setback of 14 feet and an aggregate side setback of 24 feet. The residence was built in 1964 when an interior side setback less than 10 feet was allowed and an aggregate side setback of less than 25 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
17,280 sq ft	4,320 sq ft	3,554 sq ft	4,315 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
17,280 sq ft	6,048 sq ft	3,554 sq ft	4,315 sq ft	Yes

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.

TREE REMOVAL PERMIT DISCUSSION

Seven trees are proposed for removal from the project site—four in the front yard and three in the rear yard. Removal of the four trees in the front yard is necessary to accommodate the improvements proposed as part of the companion Site Plan Review Permit request. Removal of the three trees in the rear yard is necessary since the trees are diseased and dying. The Tree Removal Site Plan is provided as **Exhibit C**.

Staff conducted a site visit to the subject property and found that the site contains adequate vegetation. Based on these observations, staff is not recommending a replacement tree plan, in accordance with the finding in Section 15.70.030.A.5 which states that the Community Development Director (or Planning Commission) “may waive the requirement for a tree replacement plan if...existing trees on the property adequately compensate for removal of the tree.”

Conclusion

Staff has reviewed the proposed plans for removal of the trees relative to the standards of review for Tree Removal Permits and determined that the tree removal, 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 02-09 to allow the construction of two single-story additions measuring a total of approximately 760 square feet in area and 13 feet in height; and
- Approval of a Tree Removal Permit to allow the removal of seven trees.

Proposed Findings of Approval for the Site Plan Review Permit

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 condition of approval listed below.

Proposed Findings of Approval for the Tree Removal Permit

Based on the evidence in the staff report and project file, as well as testimony at the meeting, the Planning Commission finds that removal of the trees, as conditioned:

1. Is necessary due to incurable disease and age of the trees in the rear yard.
2. Is necessary to allow construction of an improvement that is related to a development application.
3. Will not cause a significant impact since existing trees on the property adequately compensate for the removal of the trees.

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

Proposed Condition of Approval

This condition of approval applies to the Pierce Residence Site Plan, Roof Plan, Floor Plan, and Architectural Elevations, prepared by Robert C. Kendall & Associates, date stamped February 27, 2009; and the Pierce Tree Removal Site Plan, submitted by the applicant, date stamped March 6, 2009.

1. 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

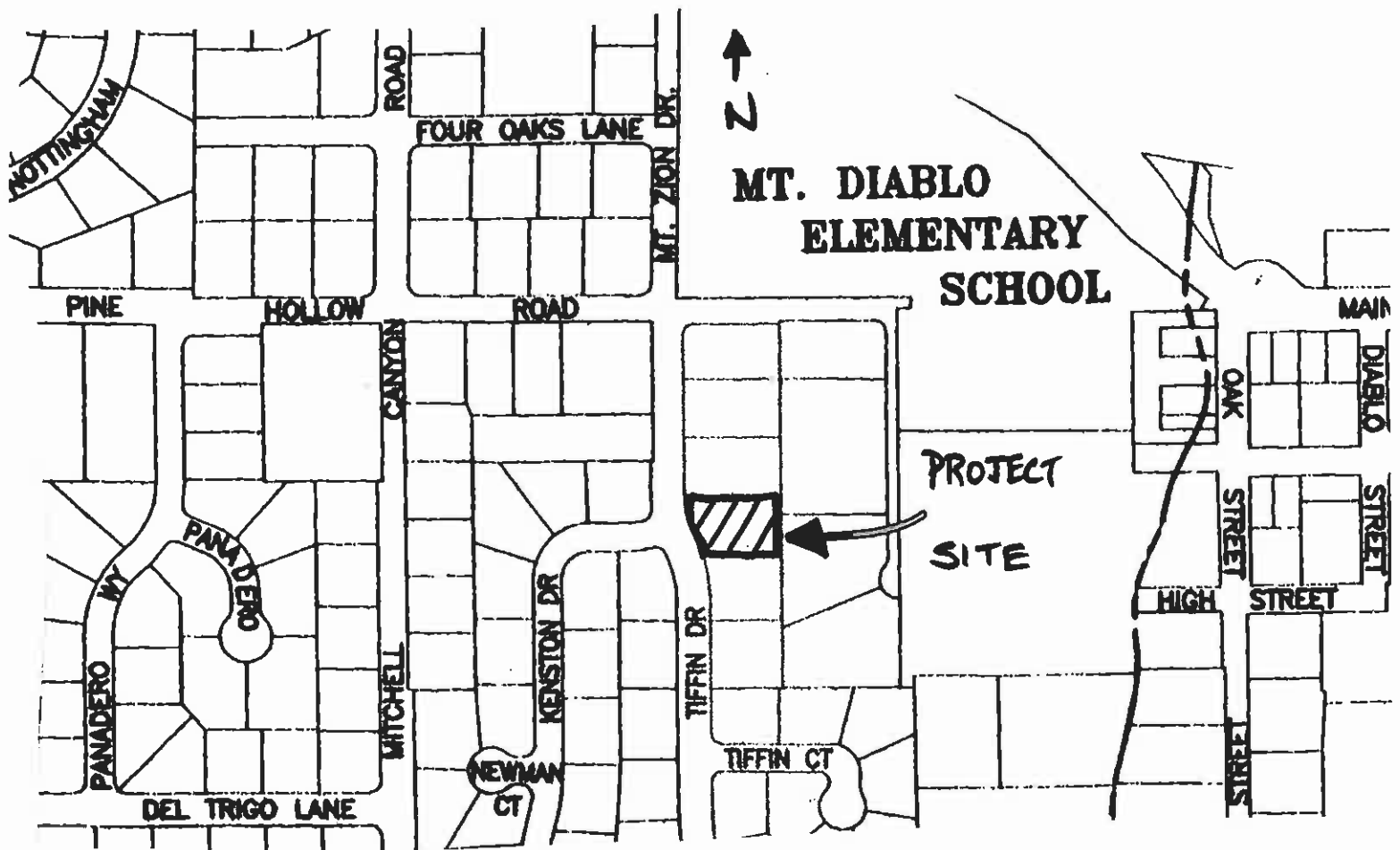
Advisory notes are provided to inform the applicant of: (a) Clayton Municipal Code requirements; or (b) requirements imposed by other agencies. The advisory notes state requirements that may be in addition to the conditions of approval.

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. Prior to final inspection, the applicant shall pay all applicable Mount Diablo Unified School District fees.
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

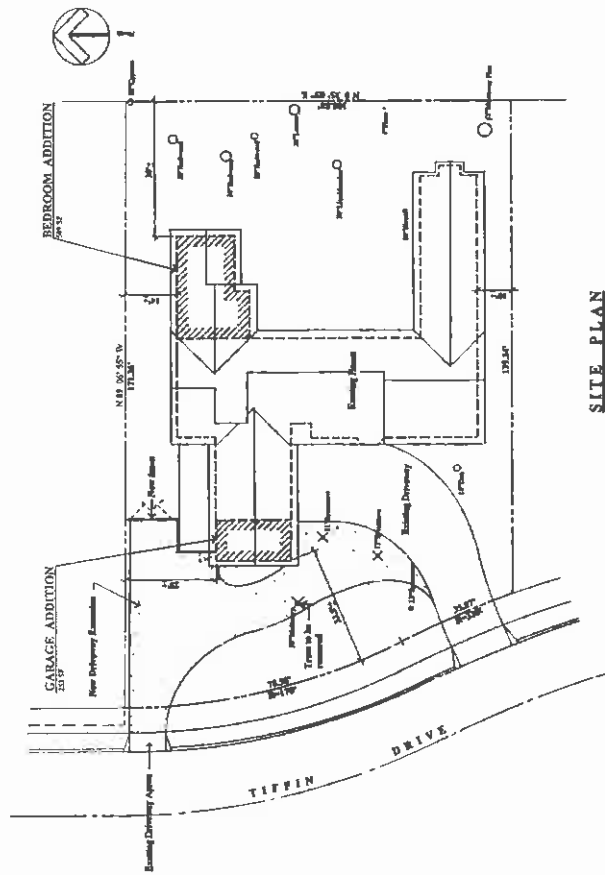
- A Location Map
- B Pierce Residence Site Plan, Roof Plan, Floor Plan, and Architectural Elevations, prepared by Robert C. Kendall & Associates, date stamped February 27, 2009
- C Pierce Tree Removal Site Plan, submitted by the applicant, date stamped March 6, 2009

SPR\2009\02-09.sr1



Location Map
1028 Tiffin Drive
APN 119-122-003

EXHIBIT A

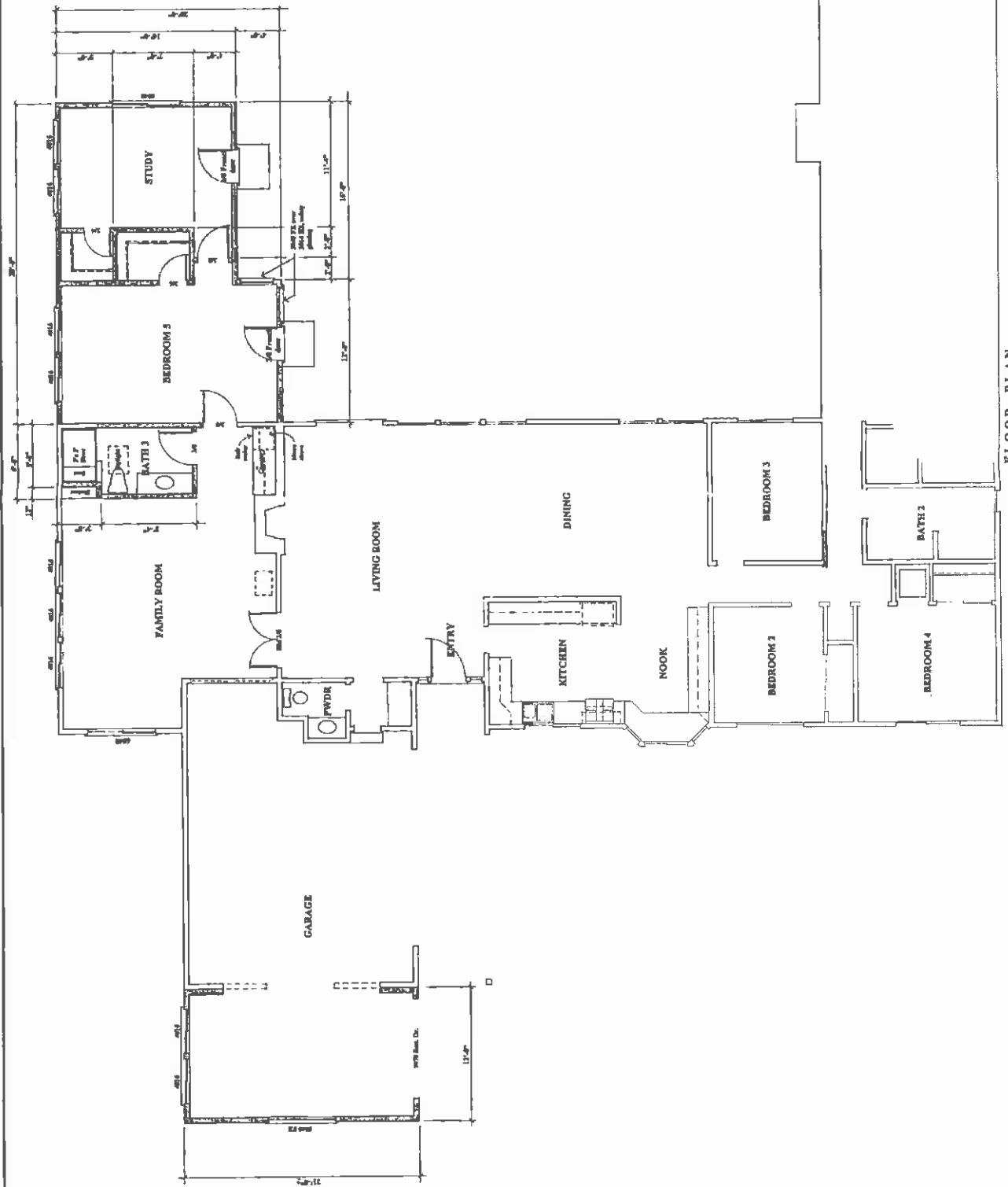


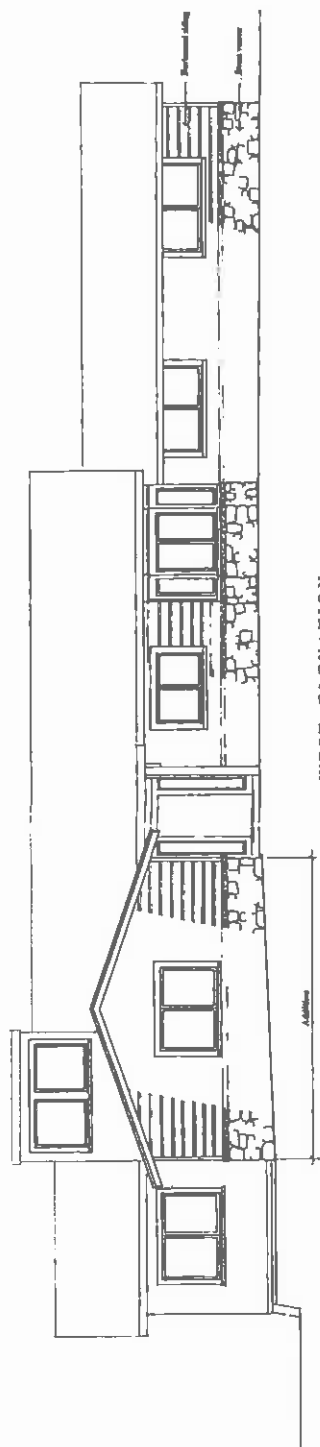
RECEIVED

FEB 27 2009
CLAYTON COMMUNITY
DEVELOPMENT DEPT.

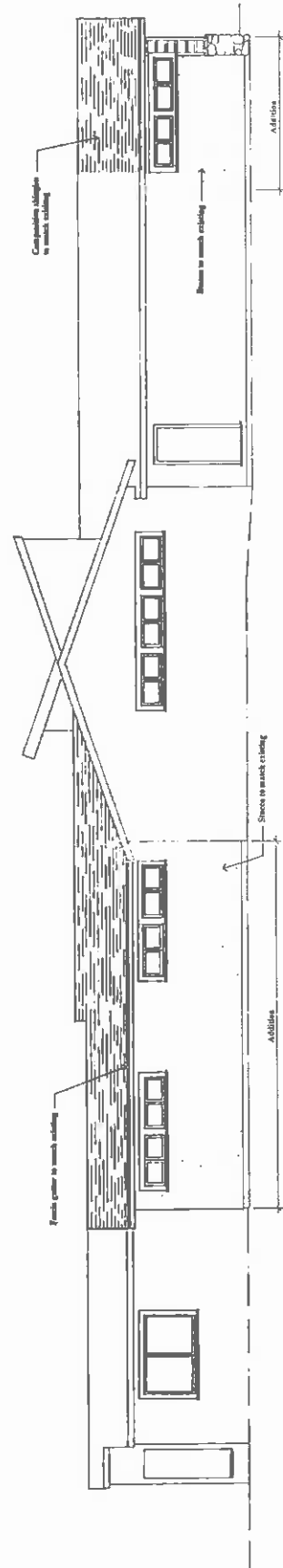
REMODEL OF BARNES/PIERCE RESIDENCE			
AND TIPPIN DRIVE, CLAYTON, CA			
Project No.	17-16	Drawn by	RA
Scale	1" = 10'	Check by	
Date	2-26-09	Project Engineer	MARK E. GIBBELL, A PROFESSIONAL ENGINEER
CONSULTING ARCHITECTURAL AND CIVIL ENGINEERS			
2000 JEFFERSON AVENUE, SUITE 100, CLAYTON, CA 94520			

EXHIBIT B
(4 PAGES)

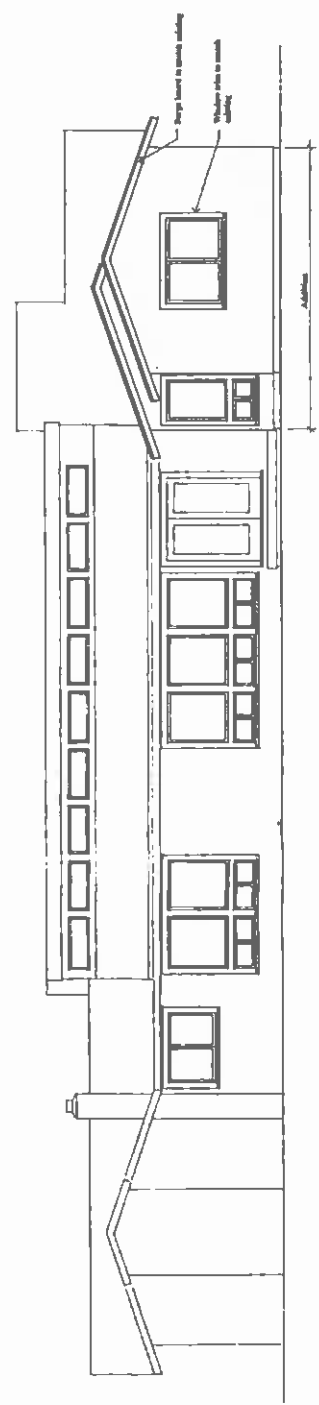




WEST ELEVATION

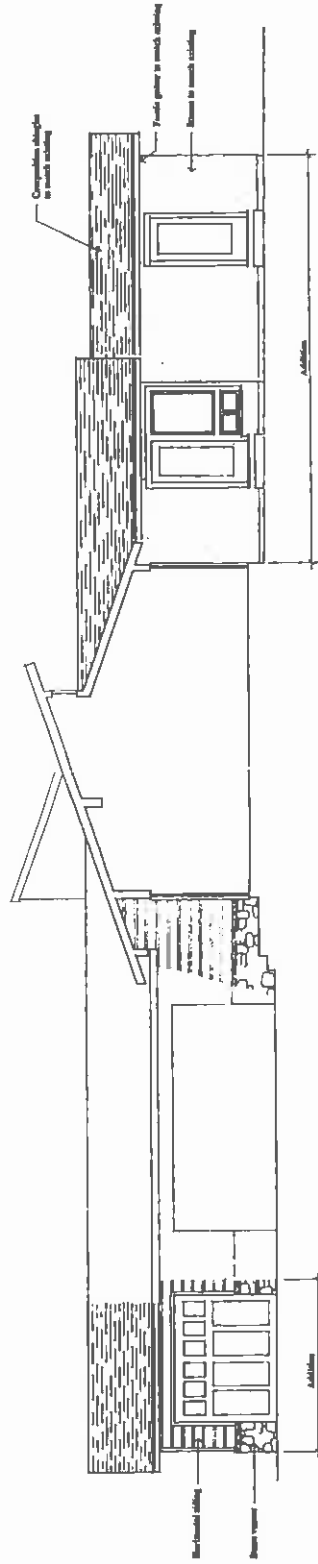


NORTH ELEVATION



EAST ELEVATION

REMODEL OF BARNES/PIERCE RESIDENCE			
1033 TIFFIN DRIVE, CLAYTON, CA			
Scale: 1/4" = 1'-0"	Drawn by: J.E.	Checked by: J.E.	DATE: 2-21-09
PROJECT: REMODEL OF BARNES/PIERCE RESIDENCE			
CONSULTING ARCHITECTURAL AND CIVIL ENGINEERS			
and Planning Services, Inc. 2100 14th Street, Suite 200, San Francisco, CA 94103			



SOUTH ELEVATION AT ADDITION

REMODEL OF BARNES/PIERCE RESIDENCE			
PROJECT NO.	12-11-02	DATE	12/11/02
CLIENT	JOHN & JANE BARNES	ARCHITECT	JOHN & JANE BARNES
LOCATION	1234 MAIN STREET, CLAYTON, CA	SCALE	1/4" = 1'-0"
DATE	12/11/02	BY	JOHN & JANE BARNES
CONSULTING ARCHITECTURAL AND CIVIL ENGINEERS			
1234 MAIN STREET, SUITE 100, CLAYTON, CA 94520			

70.58
R=170

35.87
R=320



⊗ #1
12' Sycamore

⊗ #3
10" Mulberry

⊗ #1
12" Sycamore

⊗ #2
10" Sycamore

○ 18" Oak

Pierce / Barnes
Existing Residence

1028 Tiffin Drive
Clayton, CA 94517

⊗ #5
10" white birch

○ 20" Liquid Amber

○ 36' redwood

○ <20" Redwood> ○

⊗ #6
42" Monterey Pine

<<<< tall shrubs >>>>

○ 4" Plum

○ 30" Logquat

#4
20" cypress ⊗

N 0°35' 05" E

171.66

N 89° 06' 55" W

14'

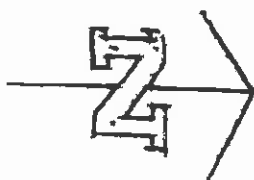


EXHIBIT
C

PLANNING COMMISSION STAFF REPORT

Meeting Date: March 24, 2009

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

Subject: Debbie Butler
Site Plan Review Permit (SPR 03-09)

REQUEST

Approval of a Site Plan Review Permit to allow the construction of a second-story balcony on an existing two-story residence. This addition measures approximately 13 feet in height and 238 square feet in area.

PROJECT INFORMATION

Applicant / Location: Debbie Butler
3038 Miwok Way
APN 118-424-012 (See **Exhibit A** for Location Map)

General Plan Designation: Medium Density - Single Family Residential (3.1 to 5.0 units per acre). This proposal complies with the General Plan designation.

Zoning: Planned Development – PD.

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

Public Notice: On March 11, 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 second-story balcony measuring approximately 13 feet in height and 238 square feet in area. The balcony will be designed with wood-appearing materials and wood coloring to complement the residence. The site plan and architectural elevations are provided as **Exhibit B**.

Setback Analysis

The projects meets the Eagle Peak Planned Development setback standards as shown below.

Required Setbacks	Existing Setbacks	Proposed Setbacks	Project Compliance
Front Setback 15'	North 31'	North No Change	Yes
Side Setback 5' minimum	West 8'	West No Change	Yes
	East 26'	East No Change	Yes
15' aggregate	Aggregate 34'	Aggregate No Change	Yes
Rear Setback 15'	South 50'	South 36'	Yes

Residential Floor Area Analysis

Section 17.78.030.D.3 of the Zoning Ordinance excludes balconies “where at least one of the longest dimensions in unenclosed” from adding to the floor area. Since the entire balcony is unenclosed, it would qualify for this exemption. Hence, the project complies with City standards by being excluded from the residential floor area requirements.

Balcony Issues

Staff has the following concerns:

- **Balustrade Separation**
Staff contacted the Contra Costa County Building Inspection Department to ensure that the separation between balustrades are in compliance with Uniform Building Code requirements. Personnel at the County informed City staff that a four-inch maximum separation between balustrades is required.
- **Railing Height**
While researching the balustrade issue with County personnel, staff inquired about minimum heights of balcony railings. Staff was informed that, for safety purposes, balcony railings must be a minimum of 42 inches in height.

As a result of these requirements, staff has provided a condition that the balcony shall comply with Contra Costa County Building Inspection Department requirements.

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 03-09 to allow the construction of a second-story balcony, 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 Butler Balcony Site Plan and Architectural Elevations, submitted by the applicant, date stamped March 10, 2009.

1. The balcony shall comply with Contra Costa County Building Inspection Department requirements
2. 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

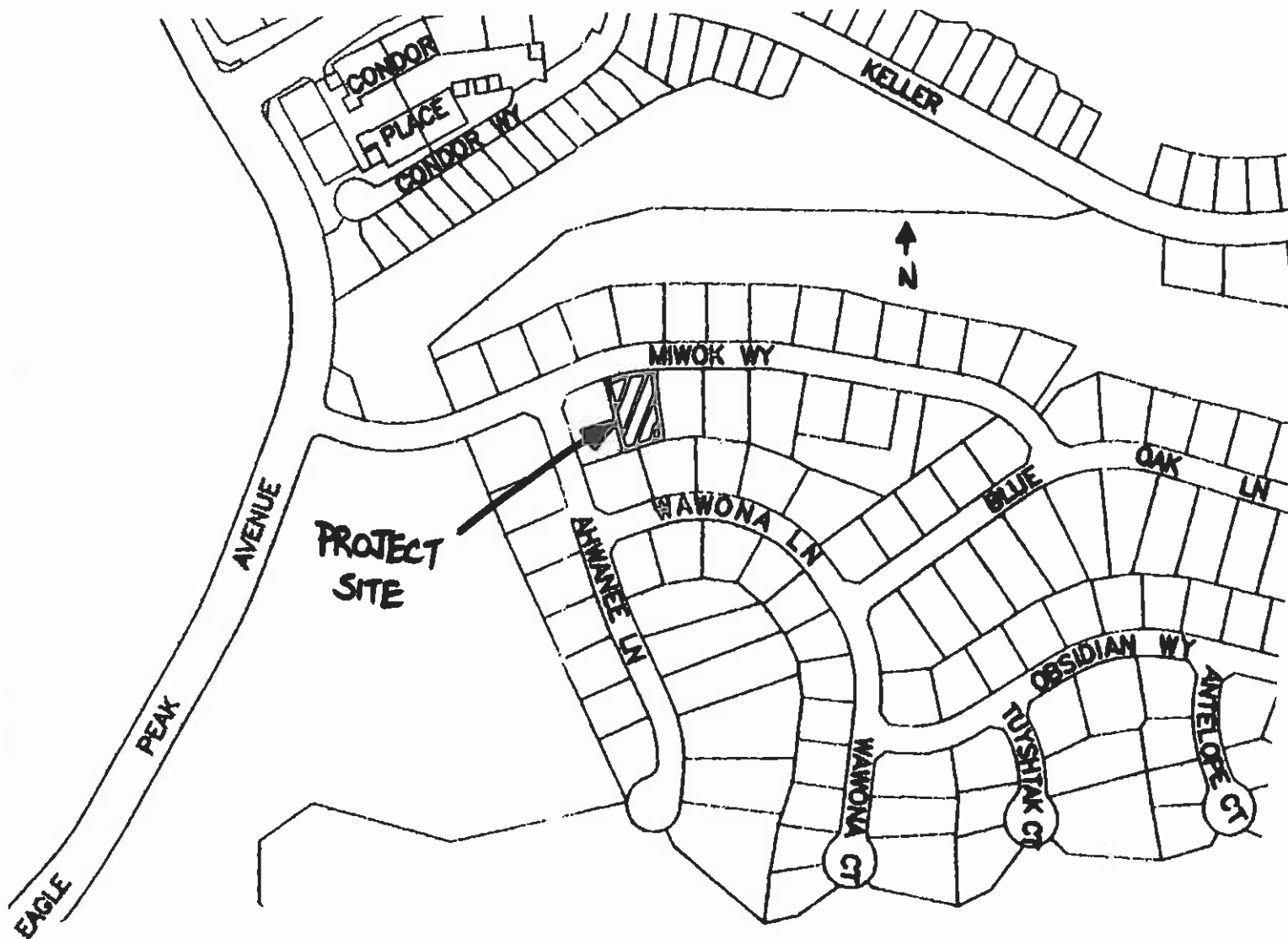
Advisory notes are provided to inform the applicant of: (a) Clayton Municipal Code requirements; or (b) requirements imposed by other agencies. The advisory notes state requirements that may be in addition to the conditions of approval.

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. Prior to final inspection, the applicant shall pay all applicable Mount Diablo Unified School District fees.
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 Butler Balcony Site Plan and Architectural Elevations, submitted by the applicant, date stamped March 10, 2009

SPR\2009\03-09.sr1



Location Map
3038 Miwok Way
APN 118-424-012

EXHIBIT A

Miwok way

Plot Plan
Deck Project

RECEIVED

MAR 10 2009

CLAYTON COMMUNITY
DEVELOPMENT DEPT.

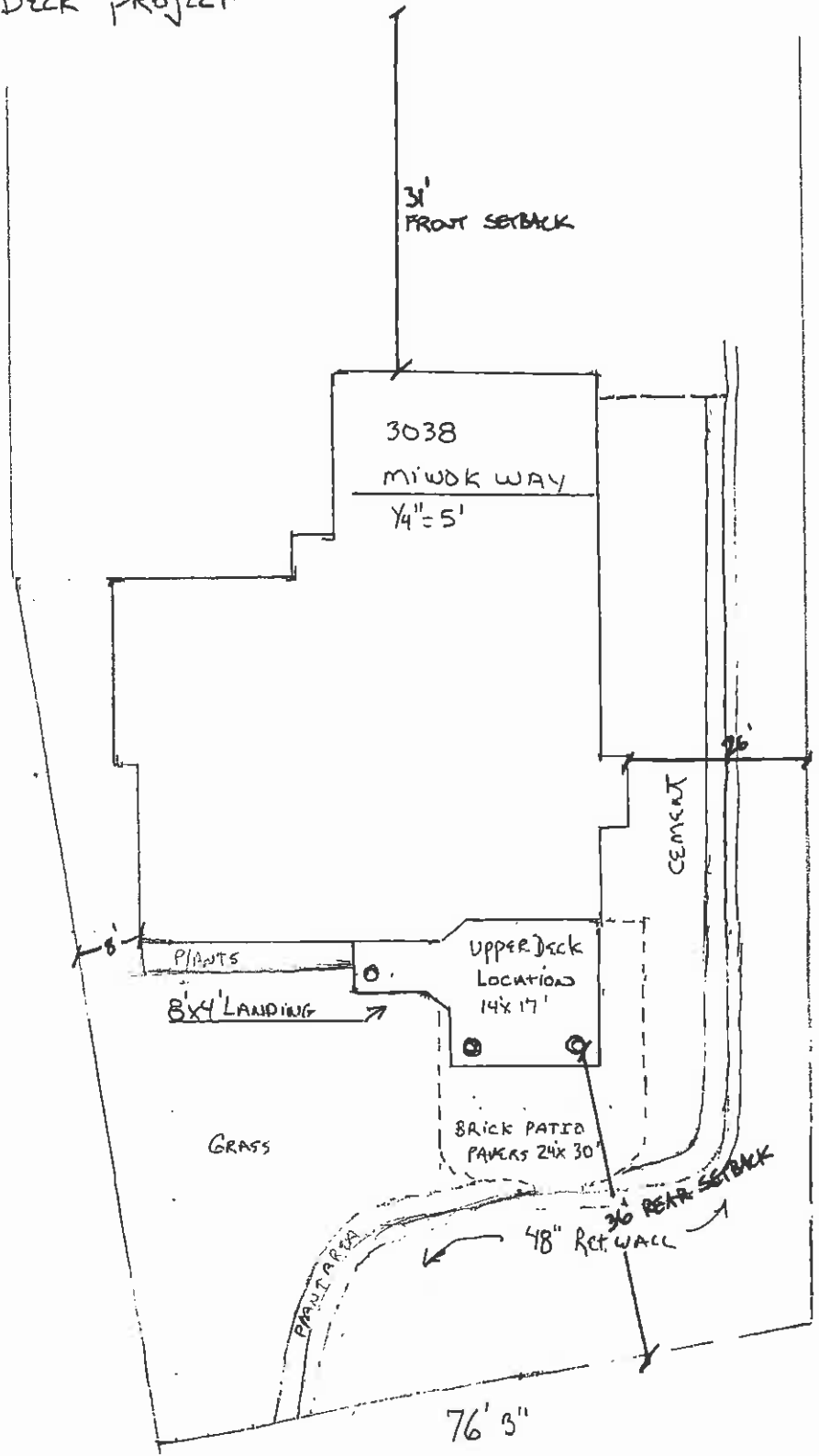
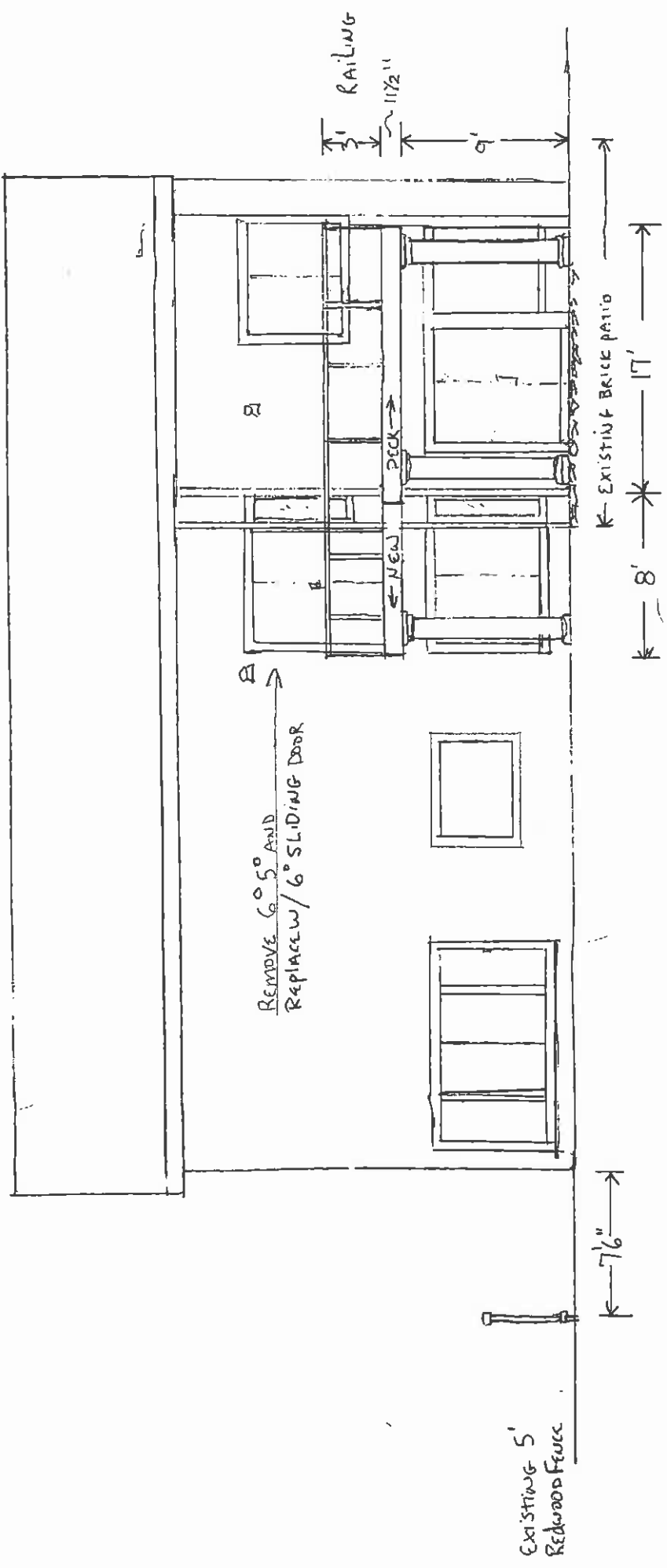


EXHIBIT B
(3 PAGES)

3038 MIWOK WAY

Deck project

1/4" = 2'



3038 MIWOK WAY
Deck project

$\frac{1}{4}" = 2'$

