



Agenda
Planning Commission Meeting
7:00 P.M. on Tuesday, December 8, 2009
Hoyer Hall, 6125 Clayton Road, Clayton

CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Administrative

- 1A. Review of agenda items.
- 1B. Commissioner Catalano to report at the City Council meeting on December 15, 2009.

Public Comment

Approval of Minutes

- 2. Approval of minutes from the meeting of November 24, 2009.

Public Hearings

- 3A. **SPR 08-08, Extension of a Site Plan Review Permit, Toni Guttry**, 5571 Morningside Drive, APN 118-110-010. A request for a one-year extension for a previously-approved Site Plan Review Permit (previously approved on December 18, 2008) 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.

- 3B. **SPR 04-09, Site Plan Review Permit, Noel O'Meara**, 1519 North Mitchell Canyon Road, APN 118-063-004. A request for a Site Plan Review Permit to allow the construction of a custom two-story single-family residence measuring approximately 27 feet in height and 4,809 square feet in area.

Proposed Action: Approval, with conditions.

- 3C. **ZOA 04-09, Municipal Code Amendment, City of Clayton**. A public hearing regarding possible amendments to the Clayton Municipal Code for the purpose of implementing the requirements of Senate Bill 1818 related to granting density bonuses and incentives to support the construction of affordable housing (*Continued from the meeting of November 24, 2009*).

Proposed Action: Recommend City Council Approval.

Old Business

4. None.

New Business

5. None.

Communications

- 6A. Staff.
6B. Commission.

Adjournment

7. The December 22, 2009 meeting of the Planning Commission has been cancelled. The next regular meeting of the Planning Commission is scheduled for **Tuesday, January 12, 2010.**

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, November 24, 2009

Call to Order

Chair Bob Armstrong called the meeting to order at 7:00 p.m. at Hoyer Hall, 6125 Clayton Road, Clayton.

Present: Chair Bob Armstrong, Vice Chair Sandra Johnson, Commissioner Ted Meriam, Commissioner Dan Richardson

Absent: Commissioner Tuija Catalano

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

Administrative

1A. Review of agenda items.

1B. Chair Armstrong to report at the City Council meeting on December 1, 2009.

Public Comment

None.

Approval of Minutes

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

Vice Chair Johnson moved and Chair Armstrong seconded a motion to approve the minutes from the meeting of November 10, 2009, as amended. The motion passed 4-0.

Public Hearings

3. **ZOA 04-09, Municipal Code Amendment, City of Clayton.** A public hearing regarding possible amendments to the Clayton Municipal Code for the purpose of implementing the requirements of Senate Bill 1818 related to granting density bonuses and related incentives to support the construction of affordable housing.

Commissioner Richardson moved and Vice Chair Johnson seconded a motion to continue Municipal Code Amendment ZOA 04-09 to the next regularly-scheduled Planning Commission meeting on December 8, 2009. The motion passed 4-0.

Old Business

4. **ZOA 05-09, Municipal Code Amendment, City of Clayton.** A study session to review the need for an amendment to the Clayton Municipal Code for the purpose of implementing the requirements of the Water Conservation in Landscaping Act of 2006 (Assembly Bill 1881, Laird).

Director Woltering presented the staff report.

Planning Commission questions and comments included:

- In the letter to the Department of Water Resources (DWR) in January 2010, staff could include the minutes from the Planning Commission meetings on this matter to provide background information for the State about the direction and rationale for where we are going on this matter.
- Can Clayton adopt its own version rather than using the State's model ordinance to implement the Water Conservation Act requirements? Director Woltering indicated, yes, that is correct.
- Since, as of January 1, 2010, the State's model ordinance would apply until the City is able to adopt its own ordinance, are there any projects within the City that staff would expect to be regulated by this model ordinance? Director Woltering indicated that the level of current development activity is quite low, and that he did not expect this model ordinance to have much use prior to the City adopting its own implementing ordinance.
- Are the Contra Costa Water District (CCWD) and the East Bay Municipal Utilities District (EBMUD) the local lead agencies? Director Woltering answered yes, although local cities within the CCWD and EBMUD jurisdictions are working with these local lead agencies to implement the provisions of the Water Conservation Act. The Community Development Director clarified that, while these two agencies are the lead agencies, local jurisdictions are allowed to develop and adopt their own implementing ordinances.
- As a community, I think we have done a great job in supporting water conservation efforts. And, our attending a regional meeting regarding implementing this Water Conservation Act shows we are willing to work collaboratively with other agencies on this matter.
- What agency will enforce these water conservation requirements before our ordinance is enacted? Director Woltering indicated that the State model ordinance would be enforced by both the City of Clayton and CCWD.

New Business

5. **ZOA 06-09, Municipal Code Amendment, City of Clayton.** A study session to review the need for an extension and modification of the Town Center parking waiver provisions.

Director Woltering presented staff report.

Planning Commission questions and comments included:

- I think the benefit of adopting a parking waiver extension for the Town Center area would be to continue to offer an incentive to develop this area of our community. However, with an extension, it would be important to continue to monitor the availability of parking spaces in the Town Center area to ensure we do not end up with a shortfall of parking spaces available.
- It appears that the three-year parking waiver period was not long enough. Director Woltering indicated that he concurred, given that there continues to be both undeveloped and underdeveloped properties in the Town Center area. He added that only one project, the mixed-use Flora Square development, actually used the waiver provision. The economic downturn has hindered the potential for development projects to come forward since the adoption of the waiver provision approximately three years ago.

- The waiver was initially established to stimulate development because developers see satisfying local parking requirements as a major barrier to the financial feasibility of a project. Director Woltering indicated that, although the parking waiver is an incentive to address financial feasibility, the parking waiver also attempts to nurture an urban form in the Town Center that is more traditional and pedestrian friendly, with buildings oriented toward the street and located side by side.
- Chair Armstrong stated that, indeed, the waiver would seem to support the vision for the Town Center to bring building frontages to the sidewalk and create a more pedestrian friendly environment.
- The impact of creating pedestrian-oriented paseos in the Town Center should be considered in conjunction with evaluating extension of the parking waiver in the Town Center as the creation of paseos would likely eliminate parking spaces.
- Are paseos proposed in a north-to-south or east-to-west trajectory? Director Woltering indicated that the issue was still up for discussion. Director Woltering added that, as with our parking lots and building frontages, we want to integrate paseos into our urban form.
- We should have some conceptual plans of paseos within the Town Center to get an overall feel for the impact of paseos.
- In the current parking waiver provisions there is mention of 200 extra parking spaces in the Town Center area; where did this number come from? Director Woltering indicated that the 200 spaces came from a Town Center parking study prepared several years ago.
- The consensus of the Commissioners was that the City needs to conduct a current review of the actual parking capacity within the Town Center before preparing an extension of the parking waiver. Moreover, the Commissioners were in general agreement that any extension offered should be based on the availability of extra parking capacity and not a specific time frame.

Communications

6A. Staff.

Director Woltering updated the Commission regarding upcoming projects and noted the following:

- Had a meeting with Mr. Jason Crapo, Deputy Director of Conservation and Development at the Contra Costa County Building Inspection Department (CCCBID), regarding improving working relations between the CCCBID and the City of Clayton.
- The City Council is exploring the following improvements to the Endeavor Hall site:
 - Expanding of the patio;
 - Changing the fencing;
 - Adding a new storage building;
 - Including a new tent-like structure over the expanded patio area.

6B. Commission.

Vice Chair Johnson indicated that she may not make the next regularly scheduled meeting of the Planning Commission on December 8, 2009.

Commissioner Meriam indicated an interest is using laptops during the Planning Commission meetings, as long as using laptops during the meetings does not violate the Brown Act.

Adjournment

7. The meeting was adjourned at 8:18 p.m.

Submitted by
David Woltering, AICP
Community Development Director

Approved by
Bob Armstrong
Chair

Plng Comm\2009\Minutes\1124

PLANNING COMMISSION STAFF REPORT

Meeting Date: December 8, 2009

From: Milan J. Sikela, Jr. 
Assistant Planner

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

REQUEST

A request for a one-year extension of a previously-approved 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).

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 November 25, 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: Not required.

Authority: Section 17.64.030 of the Zoning Ordinance authorizes the Planning Commission to approve up to a one-year extension on a Site Plan Review Permit.

BACKGROUND AND DISCUSSION

At its meeting of December 18, 2008, the Planning Commission reviewed and approved a Site Plan Review Permit (SPR 08-08) to allow construction of a custom single-family residence proposed at 5571 Morningside Drive (please see **Attachments A, B, and C** for the December 18, 2008 staff report, an excerpt of the December 18, 2008 Planning Commission minutes, and the Notice of Decision, respectively). Due to the ongoing economic downturn, the applicant, Toni Guttry, has experienced difficulties in obtaining financing for construction of the new residence and associated improvements at the project site. As a result, Ms. Guttry, is requesting a one-year extension on her Site Plan Review Permit approval in order to allow time to proceed with the project (see **Attachment D**).

RECOMMENDATION

Staff recommends that the Planning Commission approve the one-year extension of the previously-approved 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.

ATTACHMENT

- A December 18, 2008 Planning Commission Staff Report (Background Information Only)
- B Excerpt of December 18, 2008 Planning Commission Minutes (Background Information Only)
- C Planning Commission Notice of Decision (Background Information Only)
- D Letter from Toni Guttry, date stamped November 26, 2009

SPR\2008\08-08.sr3

**PLANNING COMMISSION
STAFF REPORT**

Meeting Date: December 18, 2008

From: Milan J. Sikela, Jr. *MS*
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 40' aggregate	East	None	East	20'	Yes
	West	None	West	61'	Yes
	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.

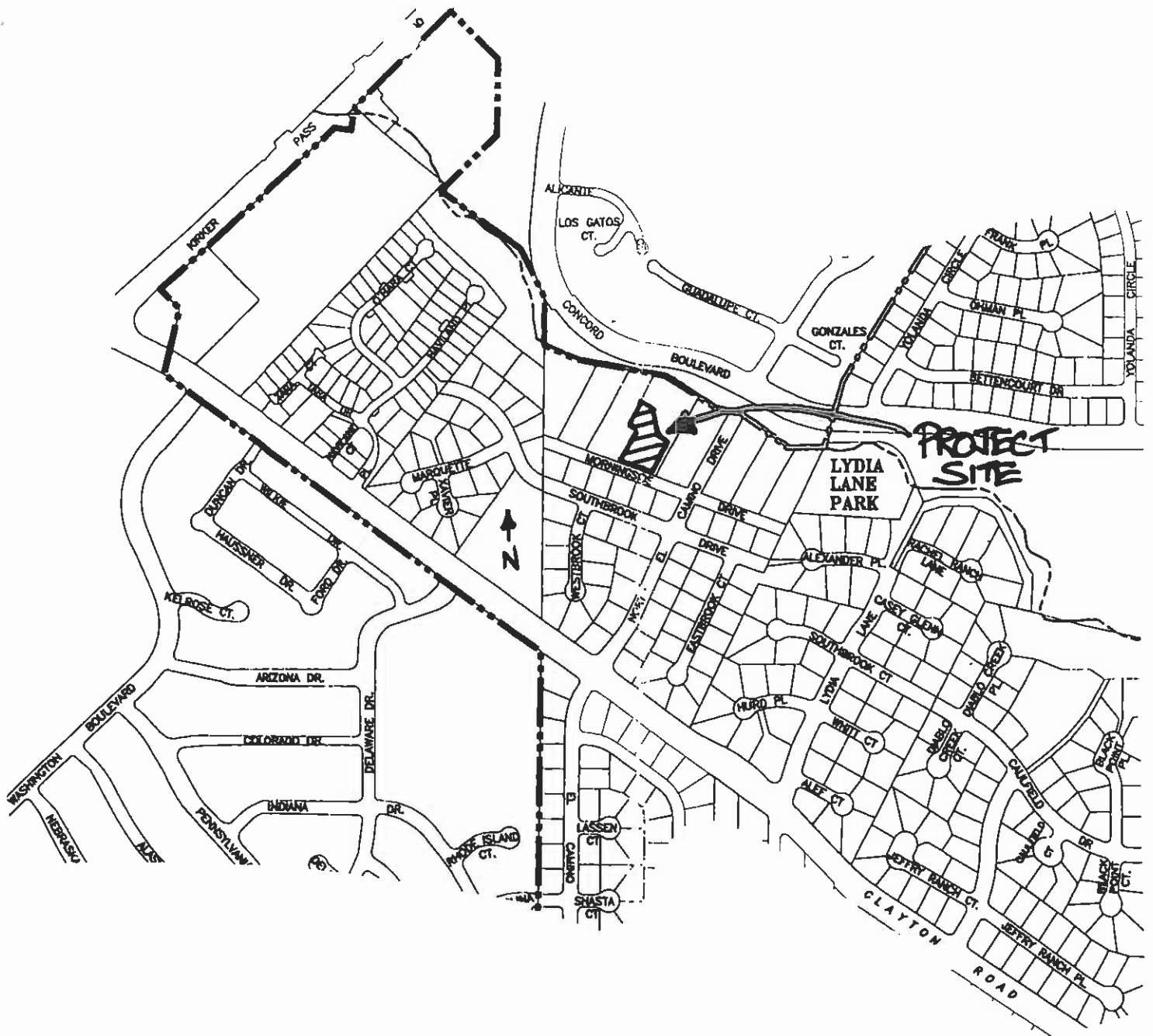
These requirements may be superseded by City adoption of zoning or stormwater regulations pursuant to State water quality regulations which address the water quality impacts of horse keeping on residential lots.

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

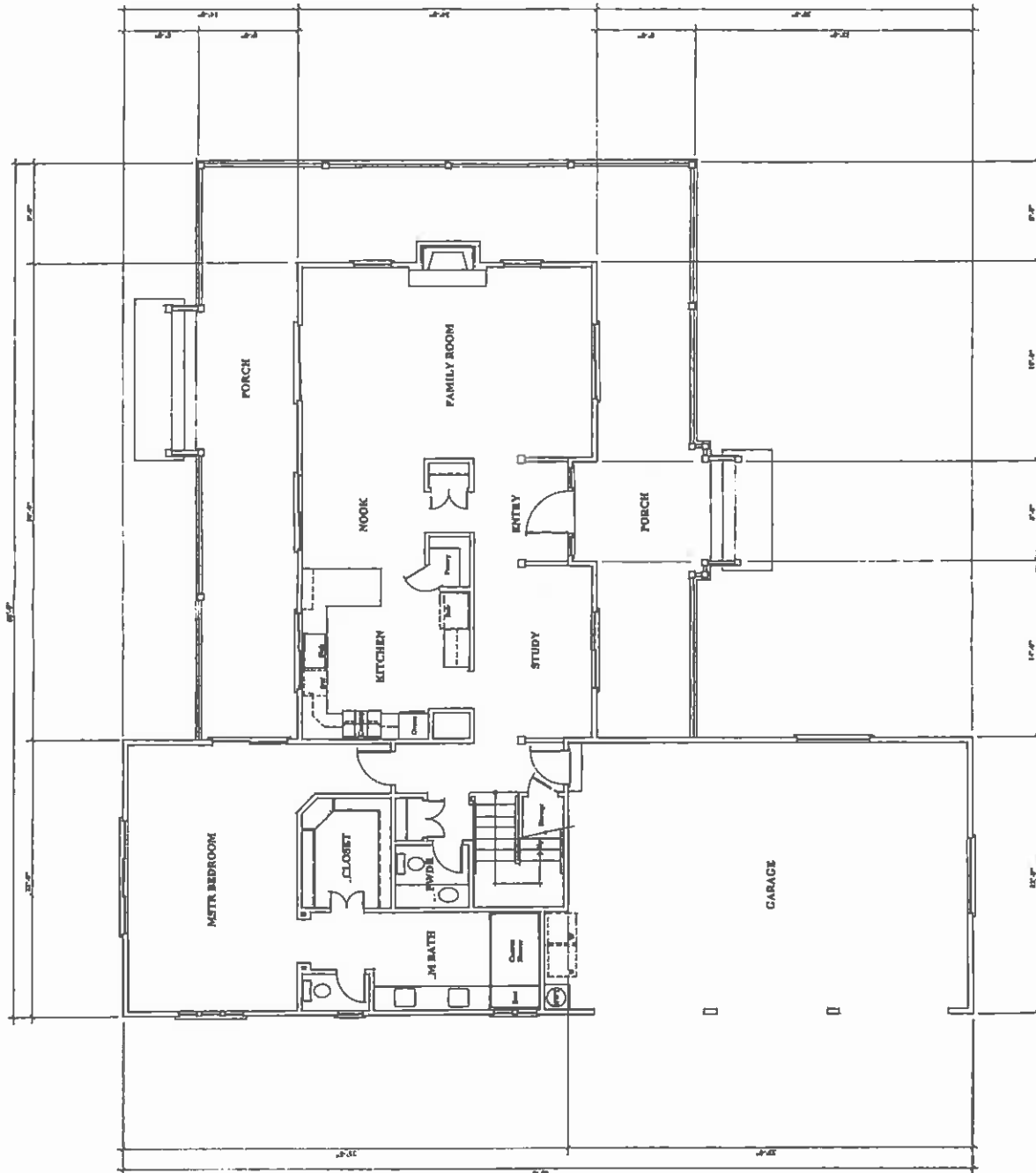
- A Location Map
- B Guttry Residence Site Plan, Roof Plan, Floor Plan, and Architectural Elevations, prepared by Robert C. Kendall & Associates, date stamped November 13, 2008
- C Guttry Residence Colors and Materials Board, prepared by Robert C. Kendall & Associates, date stamped November 13, 2008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

SPR\2008\08-08.sr1



Location Map
5571 Morningside Drive
APN 118-110-010

EXHIBIT A

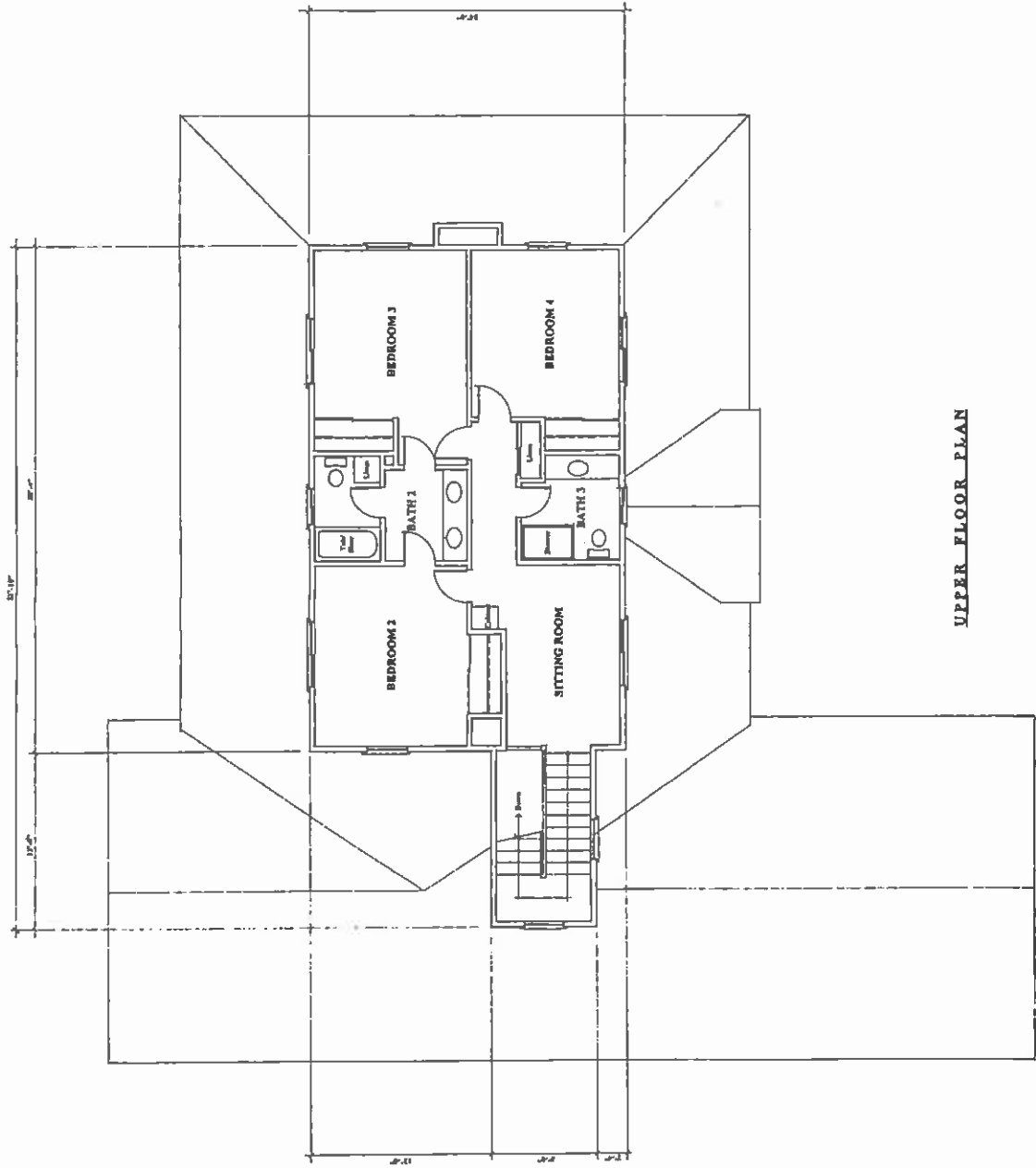


HOUSE AREA

Main Floor Living Area	1,063 sq ft
Main Floor Dining Area	252 sq ft
Main Floor Kitchen Area	252 sq ft
Main Floor Family Room	252 sq ft
Main Floor Study	252 sq ft
Main Floor Entry	252 sq ft
Main Floor Porch	252 sq ft
Main Floor Garage	252 sq ft
Total	4,911 sq ft

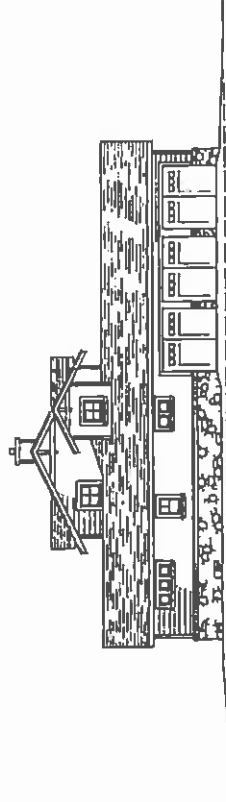
GUTTRY RESIDENCE	
301 MORNINGSIDE DRIVE, CLAYTON, CA	
Architect	JOHN F. GUTTRY, JR., ARCHITECT
Engineer	JOHN F. GUTTRY, JR., ENGINEER
Contractor	JOHN F. GUTTRY, JR., CONTRACTOR
Interior Designer	JOHN F. GUTTRY, JR., INTERIOR DESIGNER
Landscaper	JOHN F. GUTTRY, JR., LANDSCAPER
Pool Builder	JOHN F. GUTTRY, JR., POOL BUILDER
General Contractor	JOHN F. GUTTRY, JR., GENERAL CONTRACTOR

MAIN FLOOR PLAN

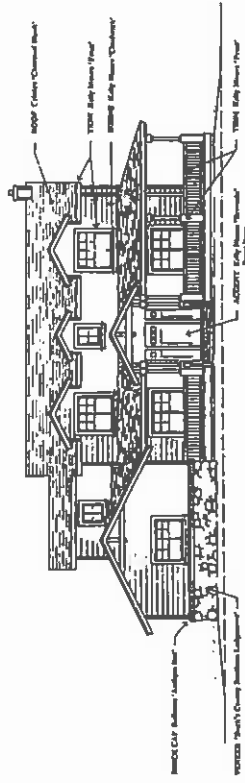


UPPER FLOOR PLAN

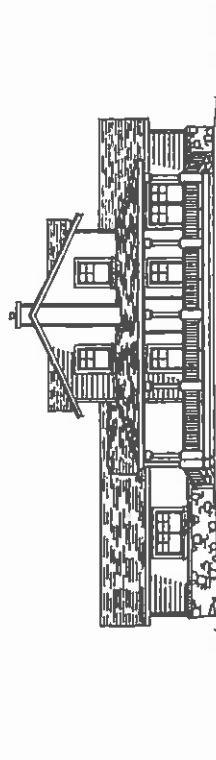
GUTTERY RESIDENCE			
8711 NOBBERSON DRIVE, CLAYTON, CA			
DATE	10/11/08	DESIGNED BY	RLC
PROJECT NO.	08-001	PROJECT NAME	8711 NOBBERSON DRIVE, CLAYTON, CA
COMPUTED BY: JACQUELYNE A. COTY, LANDSCAPE ARCHITECT			
10000 Wilshire Blvd., Suite 200, Los Angeles, CA 90024			



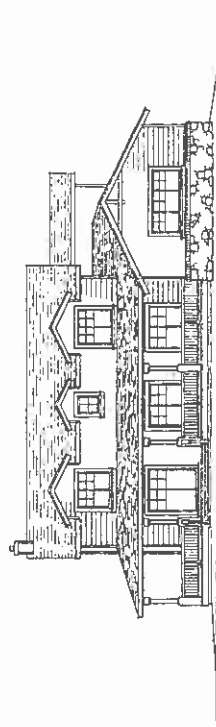
WEST ELEVATION



SOUTH ELEVATION



EAST ELEVATION



NORTH ELEVATION

**Minutes
City of Clayton Planning Commission Special Meeting
Thursday, December 18, 2008
Excerpt**

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.

Public Hearings

3A. **SPR 08-08, Site Plan Review Permit, Toni Guttry, 5571 Morningside Drive, APN 118-110-010.** 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.

The public hearing was opened. Assistant Planner Sikela presented the staff report.

Robert Kendall, representative of the applicant, indicated the following:

- The residence was designed with a country theme in terms of architectural treatments, scale, and massing.
- The project site is flat, with only two feet of elevation differential.
- After discussing flood plain issues with the City Engineer, the pad of the residence will be raised one foot in order that the residence is above the flood plain.
- He has worked with the City Engineer and the Assistant to the City Manager to resolve project-related runoff issues.
- Horse manure for the two horses on site is collected on a regular basis by Allied Waste.

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

- Is a stormwater detention levee required? Mr. Kendall responded that a levee is not required but that an overall stormwater collection system is part of the project.
- The design of the residence is quite attractive.
- Where would the fenced-in horse paddock be located? Assistant Planner Sikela indicated that the horse paddock would be located in the rear (northernmost) 10,000 square feet of the subject property.
- Is there sufficient land area to have a contiguous 10,000 square-foot paddock area, given the location of the proposed residence and gardens? Assistant Planner Sikela indicated that he had reviewed the matter with the applicant and checked the project plans and determined that this requirement could be satisfied.
- Amend Condition 2 to add "certificate of occupancy for the residence" and "if horses are kept on the subject property."

Commissioner Armstrong moved and Vice Chair Hartley seconded a motion to approve site plan review permit SPR 08-08, with the findings and conditions recommended by staff and with Condition 2 as amended by the Commission. The motion passed 5-0.



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

PLANNING COMMISSION NOTICE OF DECISION

DATE: December 30, 2008

TO: Toni Guttry
5571 Morningside Drive
Clayton, CA 94517

Robert C. Kendall
936 Dewing Avenue, Suite C
Lafayette, CA 94549

RE: Site Plan Review Permit (SPR 08-08)

Following a public hearing, the Clayton Planning Commission approved the following project on December 18, 2008. The project was approved based on the findings and condition listed below.

Project Description

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 at 5571 Morningside Drive (APN 118-110-010).

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.

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 issuance of a 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 if horses are kept on the subject property. 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.

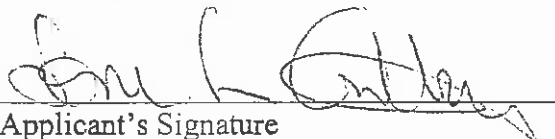
5. This site plan permit shall be used, exercised, or established within twelve months after the granting of the Permit, or a time extension must be obtained from the Planning Commission, otherwise the Permit shall be void (CMC §17.64.010-030).
6. All grading, construction, and other work shall occur 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.


David Woltering, AICP
Community Development Department

12-30-08
Date

INSTRUCTIONS TO APPLICANT: Please sign and return one copy of this Notice of Decision to the Community Development Department, 6000 Heritage Trail, Clayton, 94517; and retain the other copy for your files. If you have any questions, please call 925-673-7340.

I (We) agree to comply with the above conditions.

 , this 12 day of Jan, 20 09
Applicant's Signature

All actions of the Planning Commission are subject to appeal to the City Council as provided in Chapter 17.68 of the *Clayton Municipal Code*. Any appeal must be made in writing to the City Clerk within 10 days from the date of this Notice of Decision and must be accompanied by an appeal fee. An appeal form is available at the Community Development Department.

cc: City Engineer
Contra Costa County Building Inspection Department
Contra Costa County Fire Protection District

SPR2008\08-08.nod2

ATTACHMENT
D

RECEIVED

NOV 25 2009

CLAYTON COMMUNITY
DEVELOPMENT DEPT.

To 11/25/09

City of Clayton

Re 5571 Morningside Dr
Clayton

Please extend my site plan
review permit for 1 year
for the purpose of building

The Delay was the economy
& the failure of the banks
to make any construction
loans.

Thank you for your
consideration

Jon R. Galloway

PLANNING COMMISSION STAFF REPORT

Meeting Date: December 8, 2009

From: Milan J. Sikela, Jr. 
Assistant Planner

Subject: Noel O'Meara
Site Plan Review Permit (SPR 04-09)

REQUEST

Approval of a Site Plan Review Permit to allow the construction of a custom two-story, single-family residence measuring approximately 27 feet in height and 4,809 square feet in area.

PROJECT INFORMATION

Applicant / Location: Noel O'Meara
1519 North Mitchell Canyon Road
APN 118-063-004 (See **Attachment A** for Location Map)

General Plan Designation: Low Density - Single Family Residential (1.1 to 3.0 units per acre).

Zoning: Single Family Residential R-15 District (15,000 square-foot minimum lot area).

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

Public Notice: On November 25, 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 custom two-story, single-family residence measuring approximately 27 feet in height and 4,809 square feet in area (including the porch). The property is presently improved with a single-story, single-family residence and swimming pool. The existing residence will be removed and the pool retained. The proposed residence has been designed with beige horizontal siding, off-white trim, burgundy and dark gray accents, masonry wainscot highlights, and architectural grade composition shingle roof material. The topographical survey, site plan, floor plan, roof plan, and architectural elevations are provided as **Attachment B**.

Setback Analysis

The project meets the R-15 District standards as shown below.

Required Setbacks	Existing Setbacks	Proposed Setbacks	Project Compliance
Front Setback 20'	East 74'	East 48'	Yes
Side Setback 10' minimum	South 11'	South 14'	Yes
	North 15'	North 16' 8"	Yes
25' aggregate	Aggregate 26'	Aggregate 30' 8"	Yes
Rear Setback 15'	West 47'	West 61'	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
16,628 sq ft	4,157 sq ft	2,334 sq ft	2,027 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
16,628 sq ft	5,820 sq ft	2,334 sq ft	3,730 sq ft*	Yes

*See discussion below.

Section 17.78.030.D.3 of the Zoning Ordinance excludes porches where “one of the longest dimensions in unenclosed.” Since the longest side of the wrap-around porch is unenclosed, it would qualify for this exemption. Therefore, the 1,079 square-foot area of the porch was not included when calculating the residence’s compliance with the building footprint and floor area requirements.

Demolition of Existing Residence

An existing 2,334 square-foot single-story residence is located on the project site. The applicant is proposing to demolish the existing residence. As part of the demolition process, the applicant had the existing residence tested for hazardous materials by Hazardous Materials Assessment, as required by Bay Area Air Quality Management District regulations, and asbestos was found. As a result, the applicant had the asbestos removed by Eco Bay Services. The applicant will submit demolition plans for review and approval by the City of Clayton (City) prior to a demolition permit being issued by the Contra Costa County Building Inspection Department (CCCBID). A condition has been provided that the applicant obtain a demolition permit in accordance with City and CCCBID requirements.

Engineering Issues

The plans were reviewed by the City Engineer. Conditions have been provided regarding demolition, grading, and stormwater issues related to the project.

Staff informed the City Engineer that the applicant will not be using a debris box since, as a contractor himself, the applicant will be using a dump trailer to remove debris and other construction materials from the site. Therefore, no temporary storage permit or encroachment permit will be needed.

Landscaping Plan

As part of the new State requirements regulating water conservation in landscaping, the applicant will be submitting landscape and irrigation plans for review and approval by the Community Development Director. Given the City’s recent direction in crafting a new water conservation in landscaping ordinance, the applicant is aware that the project landscape and irrigation plans will be subject to the State’s current Model Water Efficient Landscape Ordinance. It is anticipated that the City will soon be adopting its own City-specific version of the ordinance; however, in the interim, the State’s requirements will be the guiding regulatory document. A condition has been provided that landscape and irrigation plans shall be submitted to the City for review and approval prior to building permit issuance.

Design Assessment

The residence has been designed with a country estate architectural style. Articulation is provided by the various first-story hipped-gable roof ends, second-story dormer and bay window, and 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 southeast 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 porch balustrades allow for unique visual interest which further augments the country estate 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 04-09 to allow the construction of a custom two-story single-family residence measuring approximately 27 feet in height and 4,809 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 O'Meara Residence Site Plan, Floor Plan, Roof Plan, and Architectural Elevations, prepared by R. Bruce Ballentine, date stamped November 12, 2009.

1. The applicant shall obtain a demolition permit in accordance with City of Clayton and Contra Costa County Building Inspection Department requirements. Prior to issuance of a demolition permit, the applicant shall provide the following for City review and approval:
 - a. A demolition plan indicating the improvements being demolished, treatment of utility services, and disposal of materials.
 - b. A stormwater pollution prevention plan indicating installation of protection materials (wattles, filter fabric, material storage area, access, etc.) prior to demolition activities and maintenance of such materials throughout the life of the project, including construction of the new residence.

2. The applicant shall obtain a grading permit from the City Engineer prior to building permit issuance. Prior to issuance of a grading permit, the applicant shall provide the following for City review and approval:
 - a. A grading plan, prepared by a licensed Civil Engineer, indicating finished grades, earthwork quantities, and grading specifications.
 - b. A stormwater control plan indicating treatment facilities to be constructed for stormwater runoff treatment prior to discharge into the street. The accompanying report shall be prepared in accordance with the C.3 guidebook published by the Contra Costa Clean Water Group.
3. The applicant shall execute an operation and maintenance agreement for the approved stormwater treatment facilities, assuring perpetual maintenance, inspection, and reporting of the facilities.
4. Prior to building permit issuance for the residence, the applicant shall submit a landscape and irrigation plan in conformance with City standards for review and approval by the Community Development Director.
5. 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.
6. 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.

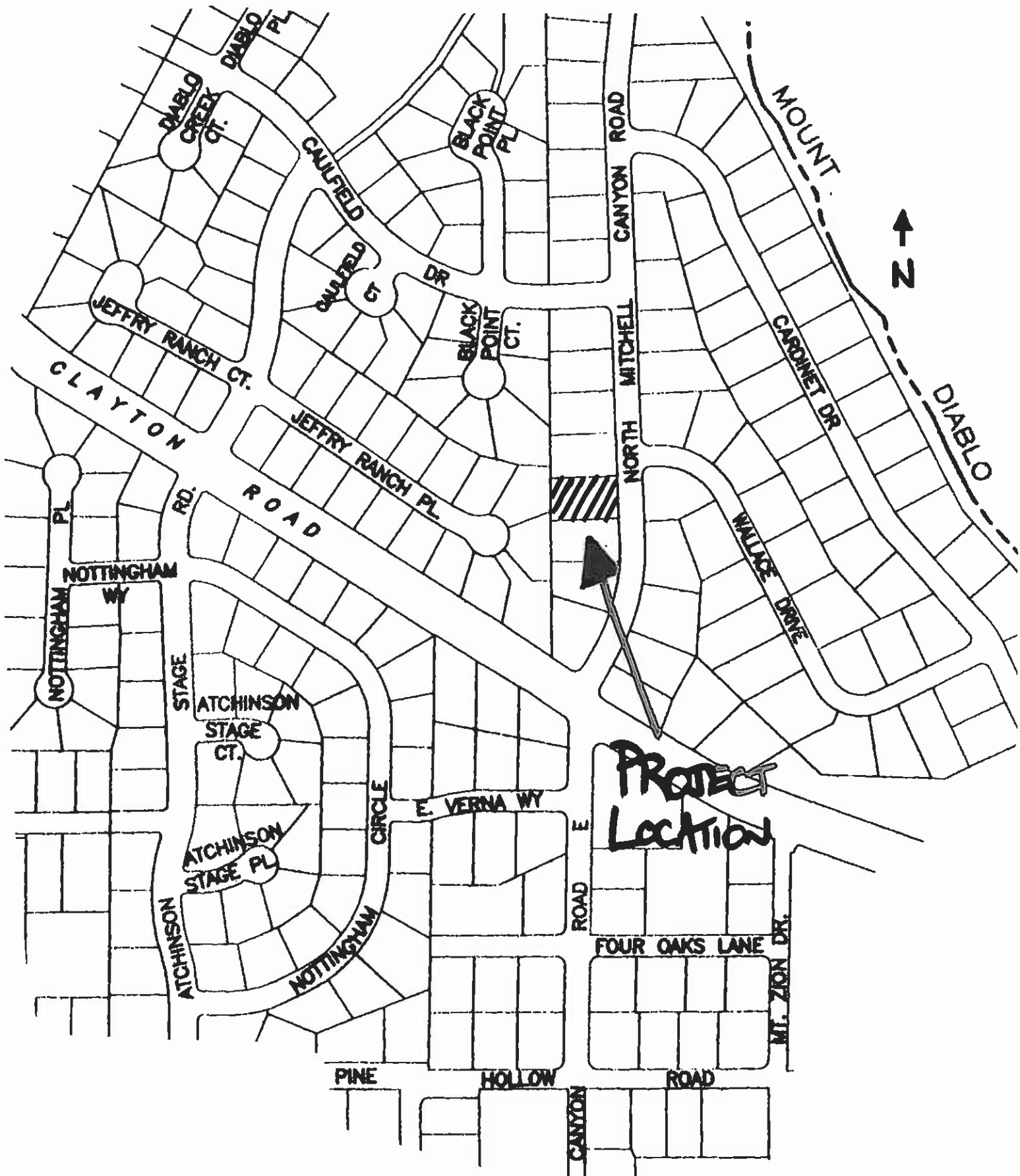
1. The applicant shall comply with all applicable state, county, and city codes, regulations, and adopted standards as well as pay all associated fees and charges.
2. Prior to obtaining a building permit, the applicant shall prepare an erosion and stormwater control plan for review and approval by the 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.

ATTACHMENTS

- A Location Map
- B O'Meara Residence Site Plan, Floor Plan, Roof Plan, and Architectural Elevations, prepared by R. Bruce Ballentine, date stamped November 12, 2009
- C O'Meara Residence Colors and Materials Board, prepared by R. Bruce Ballentine, date stamped November 12, 2009 [to be distributed at the December 8, 2009 Planning Commission meeting]

SPR\2009\04-09.sr1



Location Map
1519 North Mitchell Canyon Road
APN 118-063-004

LOCATION MAP

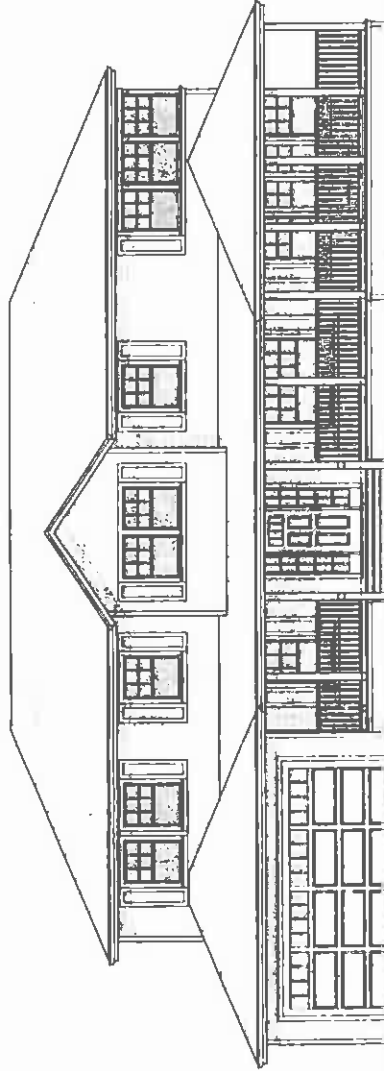


PROJECT ADDRESS	1819 N MITCHELL CANYON ROAD
CITY, STATE, ZIP	PHOENIX, ARIZONA 85016
PERMIT NO.	18-002-004
ZONING	R-10
LOT AREA	16,028 SF
CONSTRUCTION TYPE	TYPE V-B
OCCUPANCY TYPE	R-3 (SINGLE FAMILY DWELLING)
NO. OF STORY	TWO (2)
FLOOR AREA	
	FIRST FLOOR 1,508 SF
	SECOND FLOOR 1,208 SF
	COVERED PORCHES 1,079 SF
	CHARGES 121 SF
TOTAL	4,716 SF

TOTAL LOT COVERAGE:	3.108 SF	
COVERED AREA RATIO:	3.108/18,828=0.18	
FLOOR AREA RATIO:	3.208/18,828=0.19	
IMPERVIOUS SURFACE		
HOUSE	1,508 SF	
GARAGE	521 SF	
DRIVEWAYS	1,021 SF	
SHED	84 SF	
PAVED	3,540 SF	
POOL	903 SF	
DECK/PAT.	2,130 SF	
TOTAL	13,558 SF	
GRADING	CUT: 140 YD (CHALK SPACE & PIERIS)	
	FILL: 0 FT	
FIRE SPRINKLERS:	NONE	

NOV 12 2009

CLAYTON COMMUNITY
DEVELOPMENT DEPT.



TITLE	DRAW. NO.	SHEET NO.
TITLE SHEET	T-1	1
SURVEY	C-1	2
SITE PLAN	C-2	3
FIRST FLOOR PLAN	A-1	4
SECOND FLOOR PLAN	A-2	5
EXTERIOR ELEVATIONS	A-3	6
INTERIOR ELEVATIONS	A-4	7
BUILDING SECTIONS	A-5	8



[illegible]

CLAYTON

CONTRA COSTA COUNTY

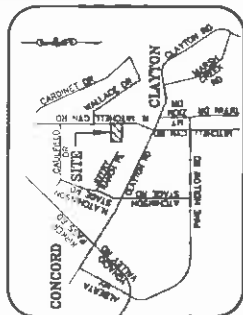
CALIFORNIA

TOPOGRAPHIC AND BOUNDARY SURVEY
1519 NORTH MITCHELL CANYON ROAD

APN 118-063-004



ALIQUOT
PLANNERS
CIVIL ENGINEERS
SURVEYORS
400 SOUTH MAIN STREET
SUITE 300
TUALATIN, OR, 97146
(503) 476-2300

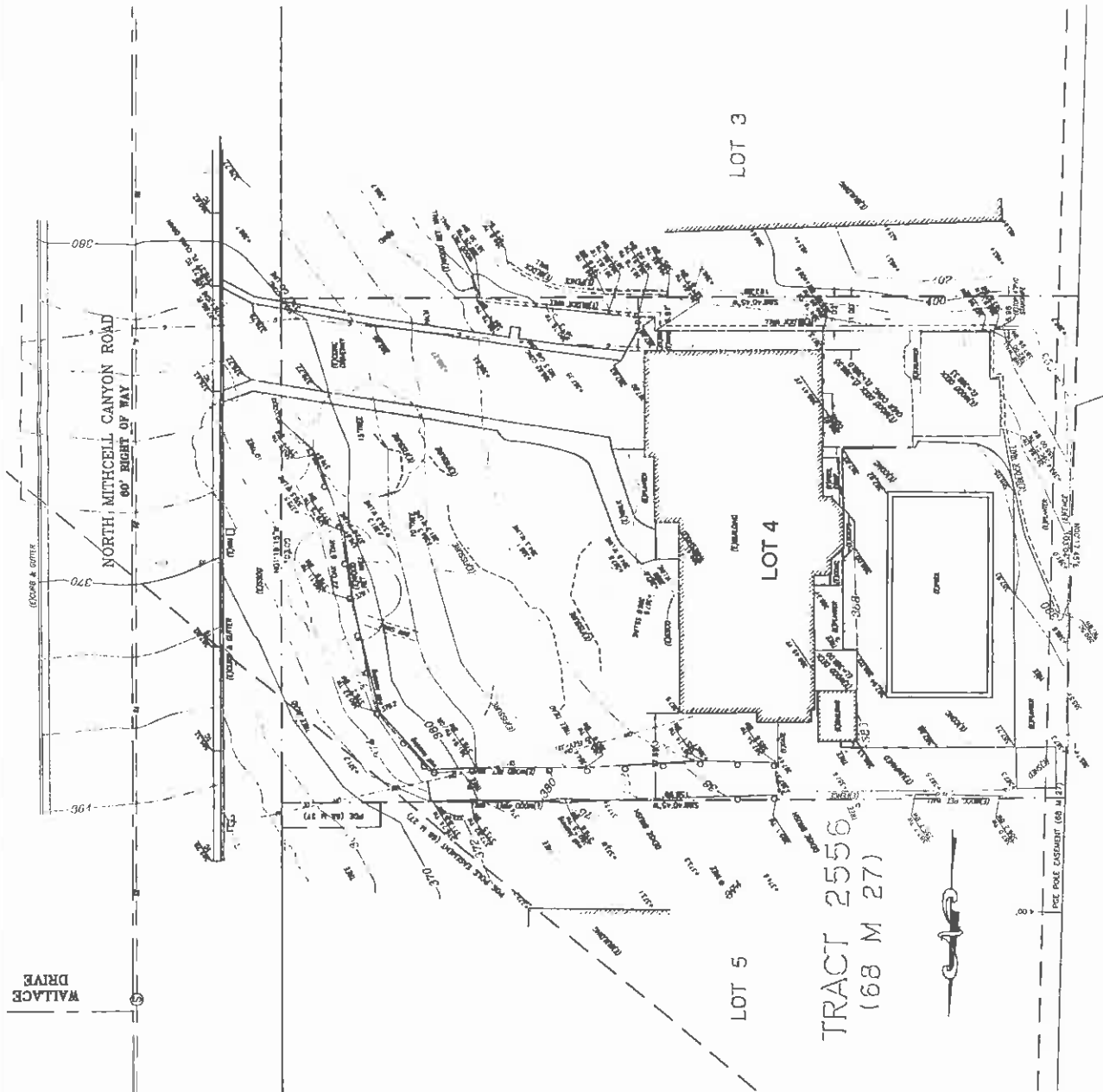
[illegible]

COUNTRY MAP MAP TO SCALE

BENCH MARK
CONTRA COSTA COUNTY CONTROL 07.26 - P.O. 208492
CITY OF CLAYTON OFFICE ON CLAYTON ROAD, NORTHWEST CORNER OF
ACCESS ROAD, SET IN THE NORTH-WEST CORNER OF A CONCRETE
FOUNDATION
ELEVATION 412.60 MMS BM

BASIS OF BEARINGS.
THE ADJUTANT GENERAL HAS THE TWO TOWN STREET MONUMENTS ON NORTH MITCHELL CANYON ROAD AS SHOWN ON MAP OF TRACT 2506, FILED AUGUST 26, 1937 IN BOOK 44 OF MAPS AT PAGE 23 BEARING OF NORTH 078°11' WTS."

UTILITY NOTE.
THE UTILITY LINES SHOWN ON THIS DRAWING ARE DERIVED FROM RECORD DATA, AND, FOR SURFACE OBSERVATION ARE APPROXIMATE ONLY. ACTUAL LOCATION AND DEPTH, TOGETHER WITH PRESENCE OF ANY ADDITIONAL UTILITY LINES, SHOULD BE VERIFIED BY THE USER OF THIS DRAWING PRIOR TO ANY CONSTRUCTION.

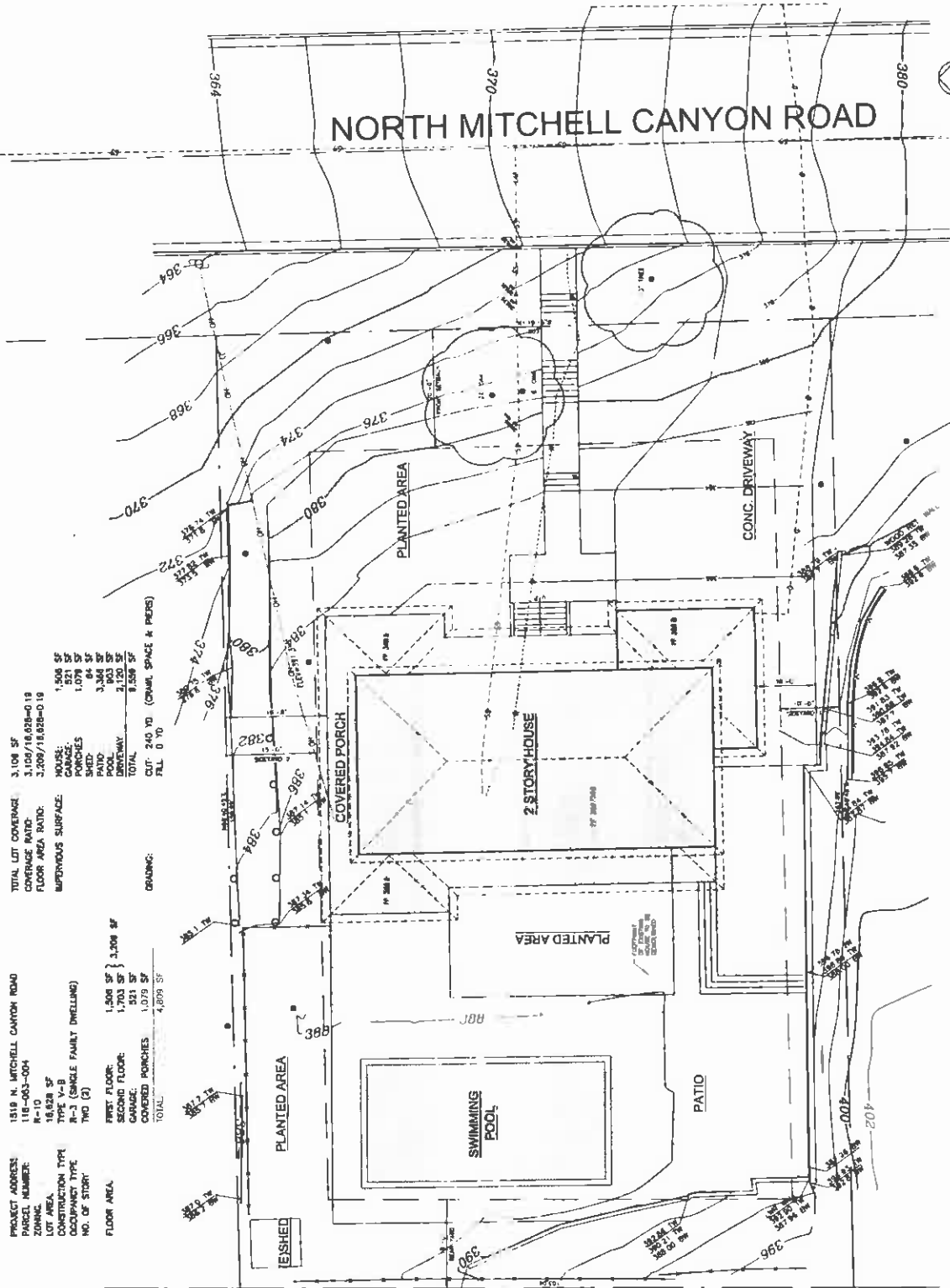
[illegible]

DESIGN DATA

PROJECT ADDRESS: 1519 N. MITCHELL CANYON ROAD
 PARCEL NUMBER: 145-063-004
 LOT AREA: 18,828 SF
 CONSTRUCTION TYPE: TYPE V-B
 OCCUPANCY TYPE: R-3 (SINGLE FAMILY DWELLING)
 NO. OF STORY: TWO (2)
 FLOOR AREA:
 FIRST FLOOR: 1,506 SF
 SECOND FLOOR: 1,703 SF
 COVERED PORCHES: 1,075 SF
 TOTAL: 4,289 SF

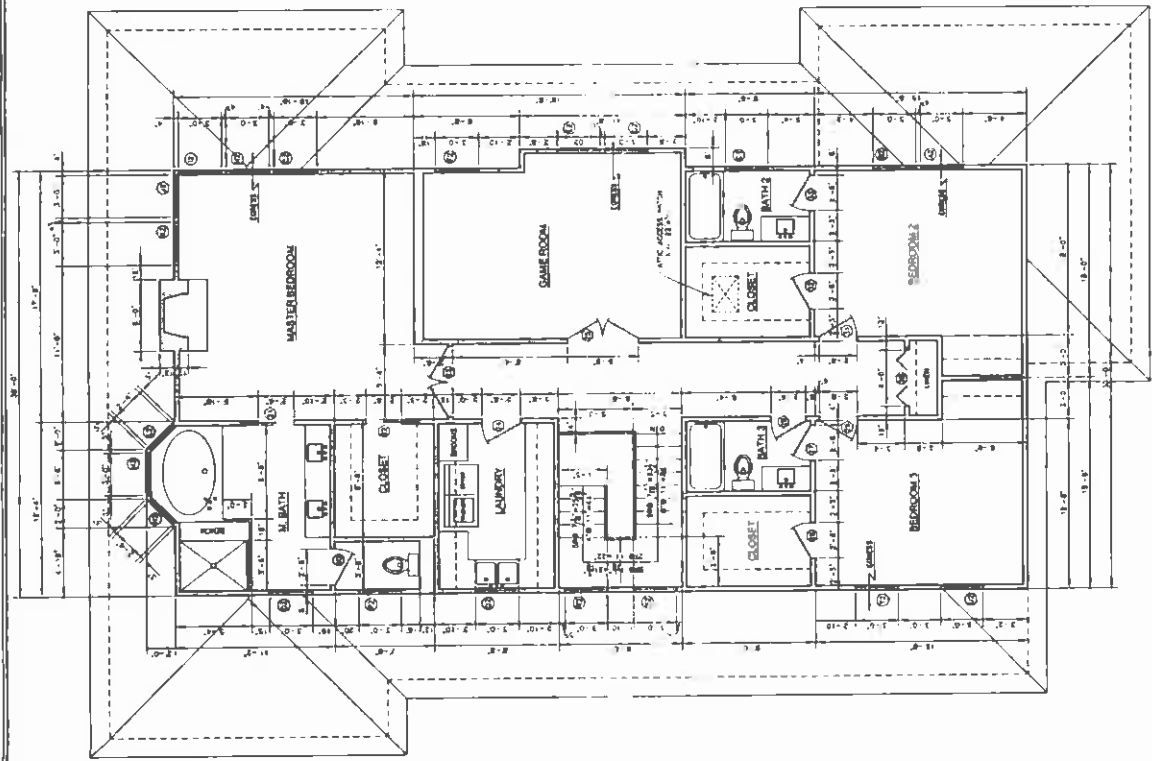
TOTAL LOT COVERAGE: 3,108 SF
 COVERAGE RATIO: 3,108/18,828=0.16
 FLOOR AREA RATIO: 3,209/18,828=0.17
 IMPERVIOUS SURFACE:
 HOUSE: 1,506 SF
 GARAGE: 521 SF
 DRIVEWAY: 1,075 SF
 PATIO: 44 SF
 POOL: 3,384 SF
 TOTAL: 8,530 SF
 CUT: 240 YD (CONV. SPACE & PIERCE)
 FILL: 0 YD

GRAVING:

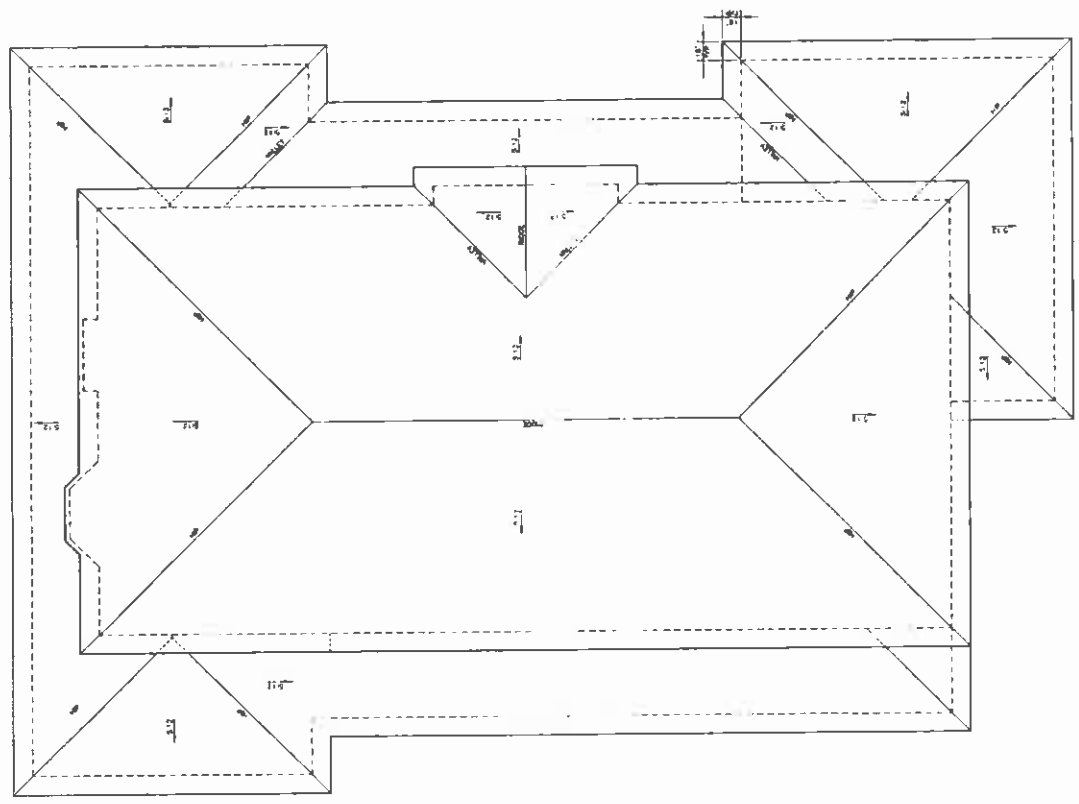




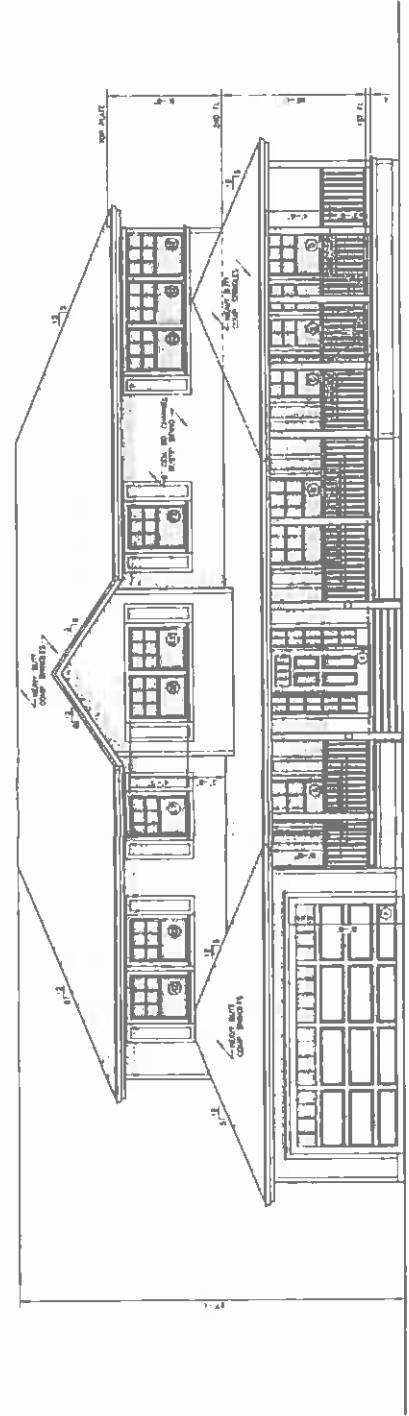
Project Location: 1519 N. Mitchell Canyon Rd, Clayton, CA 94517
 Project Name: JOHNSTON-OMEARA RESIDENCE
 Project Number: 2017-001
 Project Date: 10/1/17



B SECOND FLOOR PLAN
1/8" = 1'-0"

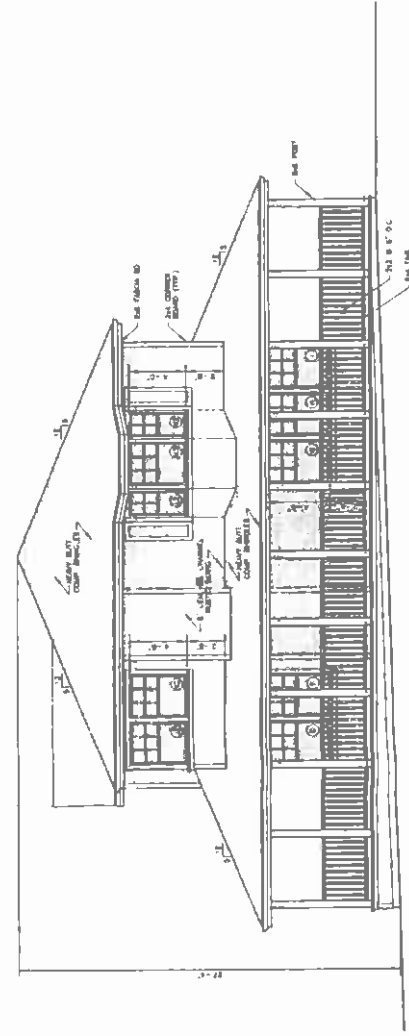


C ROOF PLAN
1/8" = 1'-0"



EAST ELEVATION

- | | | | | | |
|---|---|--|--|--|------------------------|
| 1 SHAPES
CROSS COMB
DANIELA BIANCHI
MILANO, I.T.A. | 2 YAM COLOR
REXUS ANDRE
DANIELA BIANCHI
MILANO, I.T.A. | 3 BODY COLOR
REXUS ANDRE
DANIELA BIANCHI
MILANO, I.T.A. | 4 SHUTTERS
REXUS ANDRE
DANIELA BIANCHI
MILANO, I.T.A. | 5 FRONT DOOR
REXUS ANDRE
DANIELA BIANCHI
MILANO, I.T.A. | 6 WINDOW FRAMES
S&V |
|---|---|--|--|--|------------------------|



NORTH ELEVATION

DATE	1/1/12
BY	1/1/12
CHECKED	1/1/12
APPROVED	1/1/12

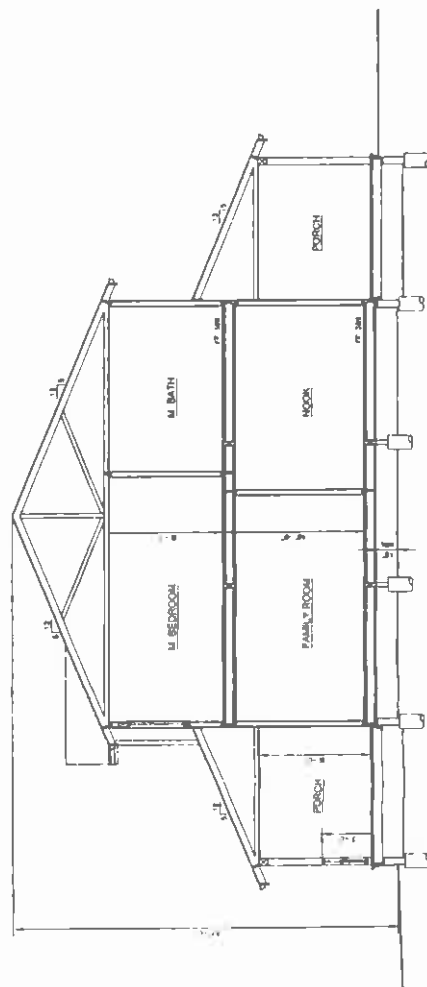
BUILDING SECTIONS

JOHNSTON-O'NEARA RESIDENCE
CLAYTON, CA 94517
1519 N MITCHELL CANYON RD

GR Bruce Ballentine
ARCHITECT
14141 Calle California 1020/201 - 2400



SECTION
A-5
1/4" = 1'-0"



PLANNING COMMISSION STAFF REPORT

Meeting Date: December 8, 2009

From: David Woltering, Community Development Director 

Subject: Amendments to the Clayton Municipal Code (ZOA 04-09) to Implement SB 1818, California's Density Bonus Law

BACKGROUND

Senate Bill (SB) 1818 expands prior law that allowed for a density bonus of 25% when housing projects provided between 10%-20% of the units meeting affordability requirements. In addition, cities and counties needed to provide one "concession" such as financial assistance or a reduction in a development standard. The new law, SB 1818, substantially reduces the number of units that the developer must provide to obtain a density bonus and requires cities and counties to provide more concessions. Moreover, the new law allows up to a 35% density bonus and imposes a new land donation rule.

At its October 13, and October 27, 2009 meetings, the Planning Commission reviewed the basic provisions and implementation requirements of SB 1818. Attached is a copy of the October 27, 2009 staff report that outlines these basic provisions and requirements. Additionally, at its October 27th meeting, the Planning Commission reviewed and commented on a draft ordinance to implement SB 1818. The Commission's comments and direction to staff on the draft ordinance are summarized immediately below:

- The quarter-mile radius requirement to a project for land donation may apply to larger cities, but it appears as an unnecessary restriction for a city like Clayton; land within Clayton that satisfies the other criteria mentioned should be considered;
- We should integrate "certificated of occupancy" within the last paragraph of Section 17.90.080 as a requirement within the development pipeline of projects qualifying for density bonuses;
- Wording should be added to Section 17.90.090 to ensure compliance with Government Code Section 65915 (d)(1);
- Definitions under Section 17.90.020 with respect to "rental" and "for sale" affordable housing should conform with the provisions of Government Code Section 50053(b)(3);
- Application under Section 17.90.030 should be modified to replace two (2) or more general dwelling units to five (5) or more general dwelling units;
- Land donation under Section 17.90.050 should be expanded to address the desired physical characteristics of land being offered for consideration. The City would

not want to accept land that has limited building potential because of conditions of slope, flood plain, etc.;

- Density bonus applications under Section 17.90.130 should be expanded to include a submittal requirement to provide information that verifies the cost reductions anticipated as a result of the incentives and concessions being requested;
- Clarify under Section 17.90.170.D that monitoring and payment of fees shall be for the mandated term of the agreement.

In addition to the Planning Commission, the City Attorney has reviewed and commented on the draft ordinance. Attached is Resolution No. 05-09, which recommends City Council approval of a revised draft Ordinance No. 426, which addresses the Planning Commission's and the City Attorney's comments and direction.

RECOMMENDATION

Staff recommends that the Planning Commission approve Resolution No. 05-09, which recommends City Council approval of Ordinance No. 426, which amends the Clayton Municipal Code to allow the local implementation of SB 1818 in accordance with State Law.

Attachments:

- A Resolution No. 05-09 with Attached Draft Ordinance No. 426
- B Planning Commission Staff Report, dated October 27, 2009
- C Planning Commission Minutes, dated October 27, 2009

ZOA\2009\04-09.sr.pc.12.8.09

**CITY OF CLAYTON PLANNING COMMISSION
RESOLUTION NO. 05-09**

**AMENDMENT OF TITLE 17 OF THE MUNICIPAL CODE TO ADD CHAPTER 17.90
DENSITY BONUS TO IMPLEMENT SB 1818, THE STATE DENSITY BONUS LAW
(ZOA 04-09)**

Whereas, the Planning Commission held duly-noticed public meetings and hearings on October 13, 2009, October 27, 2009, and December 8, 2009 to consider amendments to the Municipal Code to implement pertinent provisions and requirements of State Senate Bill (SB) 1818 in accordance with State law; and

Whereas, the Planning Commission considered all relevant information, including staff reports background information, and public testimony at the above-cited meetings and hearings; and

Whereas, based on the direction received from the Planning Commission at its October 13, 2009 and October 27, 2009 meeting and hearing on this matter, staff prepared Ordinance No. 426 to implement locally pertinent requirements of SB 1818; and

Whereas, the proposed amendments to the Municipal Code in Ordinance No. 426 are exempt from the California Environmental Quality Act (CEQA) in accordance with Section 15061(b)(3) of the CEQA Guidelines.

Now, Therefore, Be it Resolved That:

Section 1. The Planning Commission determines that the proposed amendments of the Clayton Municipal Code that implement SB 1818, described in the **Attachment** (Ordinance No. 426) would be in general conformance with the General Plan, including any affected implementation programs, and would be in the public interest as well as support the public necessity, convenience, and general welfare.

Section 2. The Planning Commission recommends that the City Council approve Ordinance No. 426 and associated proposed amendments to the Clayton Municipal Code to allow the local implementation of SB 1818 in accordance with State law.

Adopted by the Planning Commission on _____.

APPROVED

ATTEST

Bob Armstrong
Chair

David Woltering, AICP
Community Development Director

Attachment: Draft Ordinance No. 426.

ORDINANCE NO. 426

AMENDMENT OF TITLE 17 OF THE MUNICIPAL CODE TO ADD CHAPTER 17.90 DENSITY BONUS TO IMPLEMENT SB 1818, THE STATE DENSITY BONUS LAW (ZOA 04-09)

THE CITY COUNCIL City of Clayton, California

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

WHEREAS, Senate Bill (SB) 1818 requires that cities and counties in the State of California adopt local ordinances to implement the provisions of that law; and

WHEREAS, the intent of SB 1818 is to increase the number of affordable housing units constructed in the State of California by implementing various measures including lowering the thresholds for eligibility for density bonuses, increasing the maximum percentage of possible bonus to 35% from 25%, increasing the number of incentives that local communities must offer to qualified development projects, and offering a land donation consideration for obtaining a density bonus based on satisfying specified criteria; and

WHEREAS, the Planning Commission held duly-noted public hearings on October 13, 2009, October 27, 2009, and December 8, 2009 to review the requirements of SB 1818 and consider amendments of the Municipal Code to formally implement SB 1818 in accordance with State law; and

WHEREAS, at its public hearings on October 13, 2009, October 27, 2009, and December 8, 2009, the Planning Commission received and considered a staff report, background information, comments, and testimony regarding a proposed amendment to Title 17 of the Clayton Municipal Code to add Chapter 17.90 Density Bonus to that Title to implement SB 1818 in accordance with State law; and

WHEREAS, at its hearing December 8, 2009, the Planning Commission determined that the proposed amendment to Title 17 of adding Chapter 17.90 would qualify for a categorical exemption from the California Environmental Quality Act (CEQA) in accordance with Section 15061(b)(3) of the State CEQA Guidelines; determined that this amendment would be in conformance with the General Plan; determined that the public necessity, convenience, and general welfare would require adoption of this amendment; and recommended City Council approval of the amendment; and

WHEREAS, on December __, 2009 and January __, 2010, the City Council held duly-noticed public hearings and gave due consideration to all testimony, comments, and documents received; and

WHEREAS, the City Council determined that the amendments of the Municipal Code would qualify for categorical exemption from the California Environmental Quality Act (CEQA) in accordance with Section 15061(b)(3) of the State CEQA Guidelines; and

WHEREAS, the City Council determined that the following amendment would be in general conformance with the General Plan; and

WHEREAS, the City Council determined that the public necessity, convenience, and general welfare would require adoption of the amendment; 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. Title 17 of the Municipal Code shall be amended to add Chapter 17.90, referred to herein as **Attachment 1**.

SECTION 2. If any provision 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. 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 ordinance and public notices.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Clayton held on _____, 2009.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular meeting thereof held on _____, 2010, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON

Hank Stratford, 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 _____, 2009, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on _____, 2010.

Laci J. Jackson, City Clerk

Attachment 1

ZOA\2009\04-09.ord2.final.pc.version

Chapter 17.90AFFORDABLE HOUSING DENSITY BONUS REQUIREMENTS

17.90.010	Title and Purpose
17.10.020	Definitions
17.10.030	Applications
17.10.040	Specified Housing Units
17.10.050	Land Donation
17.10.060	Child Care Facilities
17.10.070	Condominium Conversions
17.10.080	Design, distribution and Timing of Affordable Housing Units
17.10.090	Requests for Incentives or Concessions
17.10.100	Granting of Incentives or Concessions
17.10.110	Types of Incentives or Concessions
17.10.120	Compliance
17.10.130	Density Bonus Application
17.10.140	Affordable Housing Unit Plan
17.10.150	Affordable Housing Unit Agreement
17.10.160	Affordable Housing Units Agreements for Ownership Units
17.10.170	Affordable Housing Units Agreements for Rental Units
17.10.180	Administrative Fee
17.19.190	Violation of Affordable Housing Cost Requirements

17.90.010 Title and Purpose. This Chapter shall be known and may be cited as the Affordable Housing Density Bonus Requirements Ordinance of the City of Clayton and is adopted to comply with California Government Code Section 65915.

17.90.020 Definitions. Certain words and phrases are defined within this Chapter and the definitions herein apply to this Chapter only. Where it appears from the context of such words, phrases, or provisions that a different meaning is intended, the definition shall be as determined by the Community Development Director.

- a. 'Affordable Housing Cost,' 'Affordable Ownership Housing Cost' and 'Affordable Rental Housing Cost' are defined as the allowable percentage of gross household income a household spends on housing costs for a given income group, as defined below:
 - (1) For Very Low Income households, the Affordable Housing Cost shall not exceed the product of thirty percent (30%) times fifty percent (50%) of the Area Median Income adjusted for family size appropriate for the unit;
 - (2) For Lower Income households, the Affordable Housing Cost shall not exceed the product of thirty percent (30%) times seventy (70%) of the Area Median Income adjusted for family size appropriate for the unit;

- (3) For Moderate Income households, the Affordable Housing cost shall not be less than twenty-eight (28%) of the gross income of the household, nor exceed the product of thirty-five percent (35%) times one hundred ten percent (110%) of the Area Media Income adjusted for family size appropriate for the unit;
 - (4) For owner-occupied units, the Affordable Housing Cost includes the monthly mortgage principal and interest, property taxes, homeowner's insurance, and homeowner/condominium association fees (where applicable); and,
 - (5) For renter-occupied units, the Affordable Housing cost includes the monthly rent plus utility allowance, as defined by the Contra Costa County Housing Authority.
- b. 'Affordable Housing Unit' is defined as a Dwelling Unit within a Residential Development Project which will be made available to and reserved for Very Low Income households, Lower Income households or Moderate Income household at an Affordable Housing Cost for the respective group(s).
- c. 'Applicant' is defined as any person, firm, partnership, association, joint venture, corporation, or entity or combination of entities who seek residential property development permits or approvals from the City of Clayton.
- d. 'Area Median Income (AMI)' is defined as the median for Contra Costa County as defined annually by the U.S. Department of Housing and Urban Development (HUD) and adopted by the California Department of Housing and Community Development (HCD). Income groupings that are subdivision of AMI, such as Very Low, Low, Lower and Moderate Income households are also defined by HUD and adopted by HCD.
- e. 'Child Care Facility' is defined as a facility installed, operated, and maintained for the nonresidential care of children as defined under applicable state licensing requirements for the facility.
- f. 'Child Care Facility Density Bonus' means a floor area ratio bonus over the otherwise maximum allowable density permitted under the applicable zoning ordinance and land use elements of the general plan of the City of Clayton of the Following amounts: A maximum of Five (5) square feet of floor area contained in the Child Care Facility for existing structures; or a maximum of ten (10) square feet of floor area for each square foot of floor area contained in the Child Care Facility for new structures.
- g. 'Condominium Conversion Density Bonus' means an increase in units of twenty-five percent (25%) over the number of apartments, to be provided within the existing structure or structures proposed for conversion.
- h. 'Density Bonus' is defined as a density increase of at least five percent (5%), unless a lesser percentage is elected by the Applicant, and no more

than thirty-five percent (35%) over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the General Plan as of the date of application by the Applicant to the City of Clayton.

- i. 'Development Standard' is defined as site or construction conditions that apply to a Residential Development Project pursuant to any ordinance, general plan element, specific plan, or other local condition, law, policy, resolution, or regulation.
- j. 'Dwelling Unit' is defined as a dwelling designed and intended for residential occupancy by one household.
- k. 'Floor Area' is defined as to a commercial or industrial project, as the floor area as calculated under the applicable zoning ordinance of the City of Clayton and as to a Child Care Facility, as the total area contained within the exterior walls of the facility and all outdoor areas devoted to the use of the facility in accordance with applicable state child care licensing requirements.
- l. 'Household Income' is defined as the gross annual household income for all adult wage earners, Senior Citizen or disabled family members and any other sources of household income.
- m. 'Lower Income Households' is defined as households with a total combined income not exceeding eighty percent (80%) of the Area Median Income, adjusted for household size, as established by the U.S. Department of Housing and Urban Development.
- n. 'Marketing Plan' is defined as a plan that describes how the Applicant will inform the public, and those within the appropriate income groups, of the availability of Affordable Housing Units.
- o. 'Maximum Allowable Residential Density' is defined as the density allowed under the zoning ordinance, or if a range of density is permitted, means the maximum allowable density for the specific zoning range applicable to the project.
- p. 'Mixed-Use Development Project' is defined as a Residential Development Project that may include a mix of commercial, office, industrial or residential uses.
- q. "Mobilehome Park" is defined as a mobilehome park that limits residency based on age requirements for housing older persons pursuant to Section 798.96 or 799.5 of the Civil Code.
- r. 'Moderate Income Households' is defined as households with a total combined not exceeding one hundred and twenty percent (120%) of the Area Median Income, adjusted for household size, as established by the U.S. Department of Housing and Urban Development.

- s. 'Presumed Occupancy Levels' are defined as: One person for a studio unit; two people for a one bedroom unit; three people for a two bedroom unit; and one additional person for each additional bedroom thereafter.
- t. 'Resale Controls and/or Rent Restrictions' are defined as the restrictions, set for the by the City of Clayton or by state and/or federal law, by which the rents paid on rental Affordable Housing Units and the sales price for ownership Affordable Housing Unit are limited to ensure that the units remains affordable to Very Low or Low Income households for a term of no less than thirty (30) years. With respect to rental units, such rent restrictions shall generally be in the form of a regulatory agreement recorded against the applicable property. With respect to owner occupied units, such resale controls shall generally be in the form of resale restrictions, deeds of trust and/or other similar documents recorded against the applicable property.
- u. 'Residential Development Project' is defined as detached single-family dwellings, multiple dwelling structures, groups of dwellings, condominium or townhouse developments, condominium conversions, cooperative developments, and mixed use developments that include housing units. This definition also includes contiguous or non-contiguous parcels that have one or more applications filed within a twenty-four (24) month period and which are under the same ownership.
- v. 'Senior Citizen Household' is defined as a household headed by a person sixty-two (62) years of age or older.
- w. 'Senior Citizen Housing Development' is defined as a development of at least thirty-five (35) dwelling units reserved for Senior Citizen Households and as further described in Sections 51.3 and 51.12 of the civil Code.
- x. 'Very Low Income Households' is defined as households with a total combined income not exceeding fifty percent (50%) of the Area Median Income, adjusted for household size, as established by the U.S. Department of Housing and Urban Development.

17.90.030 Application. The provisions of this Article apply to residential Development Projects and mixed-use Residential Development Projects, consisting of either five (5) or more general Dwelling Units, Senior Citizen Housing Developments or Mobilehome Parks.

17.90.040 Specified Housing Units. Unless the granting would have a specific adverse impact on public health or safety or granting is not required to provide for affordable housing cost, the City shall grant a Density Bonus, and incentives or concessions described in Section 17.90.110, when an Applicant for a Residential Development Project seeks and agrees to construct at least anyone of the Following:

- a. Ten percent (10%) of the total Dwelling Units of a residential Development Project for Lower Income Households; or

- b. Five percent (5%) of the total Dwelling Units of a Residential Development Project for Very Low Income Households; or
- c. A Residential Development Project meeting the requirements of a Senior Citizen Housing Development or a Mobilehome Park; or
- d. Ten percent (10%) of the total Dwelling Units in a common interest development as defined in Section 1351 of the Civil Code, for persons and families of Moderate Income, provided that all units in the development are offered to the public for purchase.

The Applicant shall elect whether the Density Bonus shall be awarded on the basis of Section 17.90.040 a., b., c., or d. All Density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a Density Bonus shall not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval. The Density Bonus shall not be included when determining the number of Dwelling Units that is equal to five (5%) or ten (10%) percent of the total Dwelling Units.

For Residential Development Projects that meet the criteria of Section 17.90.040 a., the Density Bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
16	29
17	30.5
18	32
19	33.5
20	35

For Residential Development Projects that meet the criteria of Section 17.90.040 b., the Density Bonus shall be calculated as follows:

5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

For Residential Development Projects that meet the criteria of Section 17.90.040 c., the Density Bonus shall be twenty (20%) percent.

For Residential Development Projects that meet the criteria of Section 17.90.040.d, the Density Bonus shall be calculated as follows:

Percentage Moderate Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

Residential Development Projects incorporating a Density Bonus require review and approval by the Planning commission; provided, however, that if the Residential Development Project involves another permit or entitlement requiring City council approval, then the Planning Commission may recommend approval or deny the project. Decisions of the Planning commission may be appealed to the City Council as provided in chapter 17.68 of the Municipal Code.

17.90.050 Land Donation. When an Applicant donates land to the City, the Applicant shall be entitled to a fifteen percent (15%) increase above the otherwise maximum allowable residential density under the applicable zoning ordinance

and land use element of the general plan for the entire Residential Development Project as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

This Density Bonus shall be in addition to any Density Bonus mandated by Section 17.90.040, up to a maximum combined increase of thirty-five (35%) percent if the Applicant seeks both the increase required under this section and the increase under Section 17.90.040. All Density Bonuses resulting in fractional numbers shall be rounded up to the next whole number.

An Applicant shall be eligible for the increased Density Bonus described in this section if all of the following conditions are met:

- a. The Applicant donates and transfers the land to the City no later than the date of approval by the City of the final subdivision map, parcel map, or residential development application of the residential Development Project seeking the Density Bonus.
- b. The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to Very Low Income households in an amount not less than ten percent (10%) of the number of residential units of the proposed Residential Development Project seeking the Density Bonus.
- c. The transferred land is characterized by the following:
 - (1) It is at least one acre in size and without environmental constraints, e.g., flood plain, wetlands, sloped topography, etc., or other

encumbrances, e.g., utility easements, etc., to permit development of at least twenty (20) units; and

- (2) It has the appropriate general plan designation and is appropriately zoned for affordable housing; and
 - (3) It is or will be served by adequate public facilities and infrastructure; and
 - (4) It shall have appropriate zoning and development standards to make the development of the Affordable Housing Units feasible; and
 - (5) No later than the date of approval of the final subdivision map, parcel map, or of the Residential Development Project seeking the Density Bonus, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of Very Low Income housing units on the transferred land, except that the City may subject the proposed Residential Development to subsequent design review, if the design is not reviewed by the City prior to the time of transfer.
- d. The transferred land and the Affordable Housing Units shall be subject to a deed restriction, which shall be recorded on the property at the time of dedication, ensuring continued affordability of the units for a term of at least thirty (30) years.
 - e. The land is transferred to the City or to another housing developer approved by the City.
 - f. The transferred land shall be within the boundary of the proposed Residential Development Project or, if the City agrees, elsewhere within the City limits.

17.90.060 Child Care Facilities. When an Applicant proposes to construct a Residential development Project that conforms to the requirements of Section 17.90.040 and includes a Child Care Facility that will be located on the premises of, as part of, or adjacent to, the Residential Development Project, the City shall grant either of the following: (i) An additional Density Bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the Child Care Facility; or (ii) an additional concession or incentive designated by the City to contribute significantly to the economic feasibility of the construction of the Child Care Facility.

The City shall require, as a condition of approving the residential Development Project that the following occur: (i) The Child Care Facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the Affordable Housing Units are required to remain affordable pursuant to this Chapter; and (ii) of the children who attend the child Care Facility, the children of Very Low Income Household, Lower Income Households, Moderate Income Households shall equal a percentage that is equal to or greater than the percentage of Dwelling Units that are made

affordable to Very Low Income Households, Lower Income Households, or families of Moderate Income Households pursuant to Section 17.90.040.

Notwithstanding any requirement of this Chapter, the City shall not be required to provide a Density Bonus or concession for a Child Care Facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

17.90.070 Condominium Conversions. When an Applicant's residential Development Project is the conversion of an existing apartment complex to a condominium complex and the Applicant agrees to make at least thirty-three (33%) of the total units of the proposed condominium Residential Development Project affordable to moderate income households for thirty (30) years, or fifteen percent (15%) of the total units of the proposed condominium Residential Development Project to Lower Income households for thirty (30) years, and agrees to pay for the administrative costs incurred by the city related to processing the application and monitoring the future status of the Affordable Housing Units, the City shall either (i) grant a Condominium Conversion Density Bonus or (ii) provide other incentives of equivalent financial value to be determined by the City.

An Applicant shall be ineligible for a Condominium Conversion Density Bonus or other incentives under this Section if the apartments proposed for conversion constitute a Residential Development Project for which a Density Bonus or other incentives were previously provided in accordance with this Chapter.

17.90.080 Design, Distribution and Timing of Affordable Housing Units. Affordable Housing Units must be constructed concurrently with market-rate units. The Affordable Housing Units shall be integrated into the Residential Development Project and be comparable in infrastructure (including sewer, water, and other utilities), construction quality and exterior design to the market-rate units. The Affordable Housing Units must also comply with the following criteria:

- a. Rental Residential Development Projects: When Affordable Housing Units are required in rental Residential Development Projects, the units should be integrated with the project as a whole. All Affordable Housing Units shall reflect the range and numbers of bedrooms provided in the project as a whole, and shall not be distinguishable by design, construction, or materials. All Affordable Housing Units shall be reasonably dispersed throughout the project.
- b. Owner-occupied Residential Development Projects: When Affordable Housing Units are required in owner-occupied Residential Development Projects, the units should be integrated with the project as a whole. Affordable Housing Units may be smaller in aggregate size and have different interior finishes and features than market-rate units so long as the interior features are durable, of good quality and consistent with contemporary standards for new housing. All Affordable Housing Units shall reflect the range and number of bedrooms provided in the project as a whole, except that if the market-rate units provide more than four bedrooms, the Affordable Housing Units need not provide more than four bedrooms.

No building permits will be issued for market-rate units until all Affordable Housing Units have been constructed, unless Affordable Housing Units are to be constructed in phases pursuant to a plan approved by the City.

Market-rate units will not be inspected for issuance of a certificate of occupancy until all Affordable Housing Units have been constructed, unless Affordable Housing Units are to be constructed in phases pursuant to a plan approved by the City.

17.90.090 Requests for Incentives or Concessions. Applicant must submit a Density Bonus Application, as described in Section 17.90.130 below, for the specific incentives or concessions that the Applicant requests. The city shall grant the concessions or incentive requested by the Applicant unless the city makes a written finding, based upon substantial evidence, of either of the following:

- a. The concessions or incentive is not required in order to provide for Affordable Housing Costs;
- b. The concession or incentive would have a specific adverse impact upon public health and safety or the physical environment or on any real property that is listed in the Federal Register of Historical Resources or any locally officially designated architecturally and historically significant buildings and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to Low and Moderate Income households.

17.90.100 Granting of Incentives or Concessions. If the conditions of 17.90.040 are met by Applicant, the following incentives or concessions may be granted:

- a. One incentive or concession for a Residential Development Project that makes: At least ten percent (10%) of the total units affordable to Lower Income households; or at least five percent (5%) of the total units affordable to Very Low income households; or at least ten percent (10%) of the total units affordable to persons and families of Moderate Income in a common interest development.
- b. Two incentives or concessions for a Residential Development Project that makes: At least twenty percent (20%) of the total units affordable to Lower Income household; or at least ten percent (10%) of the total units affordable to Very Low income households; or at least twenty percent (20%) of the total units affordable to persons and families of Moderate Income in a common interest development.
- c. Three incentives or concession for a residential Development Project that makes: At least thirty percent (30%) of the total units for Lower Income households; at least fifteen percent (15%) for Very Low Income households, or at least thirty percent (30%) for persons and families of Moderate Income in a common interest development.

17.90.110 Types of Incentives or Concessions. For the purposes of this Chapter, concessions or incentive may mean:

- a. A reduction in site Development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission, resulting in identifiable, financially sufficient, and actual cost reductions, or
- b. A reduction in setback and square footage requirements; or
- c. A reduction in the ratio of vehicular parking spaces and/or configurations as set forth in Government Code Section 65915(p); or
- d. Approval of mixed use zoning in conjunction with the Residential Development Project if commercial, office, industrial, or other land uses will reduce the development cost of the Residential Development Project and if the commercial, office, industrial, or other land uses compatible with the Residential Development Project and the existing or planned development in the area where the proposed housing project will be located.

Nothing in this Section shall be construed to require the provision of direct financial incentives for the Residential Housing Development, including the provision of publicly owned land by the city or the waiver of fees or dedication requirements.

17.90.120 Compliance. The provisions of this chapter shall apply to all agents, successors and assignees of an Applicant, developer, builder or property owner proposing a Residential Development Project governed by this chapter. No tentative map, use permit, special development permit or occupancy permit shall be issued for any Residential Development Project unless exempt from or in compliance with the terms of this Chapter.

The City may institute any appropriate legal actions or proceedings necessary to ensure compliance herewith, including but not limited to actions to revoke, deny, or suspend any permit or development approval.

17.90.130 Density Bonus Application. In order to receive the concessions and/or incentives described in Section 17.90.110, the Applicant must submit to the city a Density Bonus Application (DBA) which will be treated as part of the development application. At any time during the review process, the community Development Director may require from the Applicant additional information reasonably necessary to clarify and supplement the application for determining the consistency of the proposed DBA with the requirements of this Chapter.

The DBA should include, but not be limited to, the following:

- a. A description of the Residential Development Project including the proposed total number of Affordable Housing Units, Senior Housing Units or Mobilehome Park Units;
- b. The zoning and general plan designations and assessors parcel number (s) of the project site;

- c. A vicinity map and preliminary site plan, drawn to scale, including building footprints, driveway and parking layout.
- d. A description of the concessions or incentives requested and information that verifies the cost reductions anticipated if granted the requested incentives and/or concessions.
- e. If an additional incentive(s) is requested, the application should describe why the additional incentive(s) are necessary to provide the Affordable Housing Units.

17.90.140 Affordable housing Unit Plan. The Applicant must submit an Affordable Housing Unit Plan (AHUP) which will be treated as part of the development application. At any time during the review process, the Community Development Director may require from the Applicant additional information reasonably necessary to clarify and supplement the application or determining the consistency of the proposed AHUP with the requirements of this Chapter.

The AHUP should include, but not be limited to, the following:

- a. The location, structure (attached, semi-attached, or detached), proposed tenure (for-sale or rental), and size of the proposed market-rate, commercial space and/or Affordable Housing Units;
- b. A floor or site plan depicting the location of the Affordable Housing Units and a floor plan describing the size, in square footage, of the Affordable Housing Units;
- c. The income levels to which each Affordable Housing Unit will be made affordable;
- d. The documents that will be used to assure that the units remain affordable for the desired term, such as resale and rental restrictions, deed of trust, and rights of first refusal and other documents;
- e. For phased Residential Development Projects, a phasing plan that provides for the timely development of the number of Affordable Housing Units proportionate to each proposed phase of development as required by this Chapter;
- f. A marketing plan that describes how the Applicant will inform the public, and those within the appropriate income groups, of the availability of Affordable Housing Units;
- g. Any other information reasonably requested by the Community Development Director to assist with evaluation of the AHUP under the standards of this Chapter.

17.90.150 Affordable Housing Unit Agreement. The form of the Affordable Housing Unit Agreement (AUA) will vary, depending on the manner in which the provisions of this Chapter are satisfied for a particular development. The AUA

shall be recorded as a restriction on the parcel or parcels on which the Affordable Housing units will be constructed. The approval and recordation of the AUA shall take place prior to final map approval, or, where a map is not being processed, prior to issuance of building permits for such parcels or units. The AUA shall be binding on all future owners and successors interest. An AUA must include, at minimum, the following:

- a. A description of the development, including the total number of units, the number of Affordable Housing Units, and the tenure of the Affordable Housing Units;
- b. The size, in square footage, and location of Affordable Housing Units;
- c. A description of the household income group to be accommodated by the Affordable Housing Units, and the formula for determining the affordable rent or affordable sales price and housing cost for each Affordable Housing Unit;
- d. The term of affordability for the Affordable Housing Units;
- e. A schedule for completion and occupancy of the Affordable Housing Units;
- f. Provisions and/or documents for resale restrictions, deeds of trust, rights of first refusal or rental restrictions;
- g. The Marketing Plan for sale or rental of the Affordable Housing Units;
- h. Provisions for monitoring the ongoing affordability of the Affordable Housing Units, and the process for qualifying prospective resident households for income eligibility; and
- i. A description of the concession(s) or incentive(s) provided by the City.

17.90.160 Affordable Housing Unit Agreements for Ownership Units.

In the case Residential Development Projects consisting of ownership units, the AUA must provide the following additional conditions governing the sale and use of Affordable Housing Units during the applicable use restriction period:

- a. Affordable Housing Units shall be sold to Very Low Income households, Lower Income households or Moderate Income households in a common interest development, at an affordable sales price and housing cost as defined by this Chapter;
- b. Affordable Housing Units shall be owner-occupied by Very Low or Lower Income households or by Moderate Income households within common interest developments;
- c. The purchaser of each Affordable Housing Unit shall execute an instrument or agreement approved by the city restricting the sale of the Affordable Housing Unit in accordance with this Chapter during the

applicable use restriction period. Such instrument or agreement shall be recorded against the parcel containing the Affordable Housing unit and shall contain such provisions as the City may require to ensure continued compliance with this Chapter and with government Code Section 65915. With respect to Moderate Income Affordable Housing Units, the instrument or agreement shall provide for equity-sharing as set forth in Government code Section 65915; and

- d. Any additional obligations relevant to the compliance with this Chapter.

17.90.170 Affordable Housing Unit Agreements for Rental Units. In the case of Residential Development Projects consisting of rental units, the AUA must provide the following additional conditions governing the use of Affordable Housing units during the use restriction period:

- a. Specific property management procedures for qualifying and documenting tenant income eligibility, establishing affordable rent and maintaining Affordable Housing units for qualified tenants;
- b. Provisions requiring property owners to verify household incomes and maintain books and record to demonstrate compliance with this Chapter;
- c. Provisions requiring the Property Owner to submit an annual report to the city, which includes the name(s), address, and income of each household occupying target units, and which identifies the bedroom size and monthly rent or cost of each Affordable Housing unit;
- d. Provisions describing the amount of, and timing for payment of, Administrative Fees to be paid to the city for the mandated term of compliance monitoring in accordance with the provisions of this chapter; and
- e. Any additional obligations relevant to the compliance with this Chapter.

17.90.180 Administrative Fee. An administrative fee shall be charged to the Applicant for City review of all materials submitted in accordance with this Chapter and for on-going enforcement of the provisions of this Chapter. The fee amount shall be established by City Council resolution and will be described in the city of Clayton Master Fee Schedule. Fees will be charged for staff time and materials associated with the following activities: Development review process; project marketing and lease-up; and, long-term compliance of the Affordable Housing Units.

17.90.190 Violation of Affordable Housing Cost Requirements. In the event it is determined that rents in excess of those allowed by operation of this Chapter have been charged to a tenant residing in a rental Affordable Housing Unit, the city may take the appropriate legal action to recover, and the rental unit owner shall be obligated to pay to the tenant (or the City in the event the tenant cannot be located), any excess rent

charges. In such an action, the City shall be entitled to recover its legal costs and reasonable attorney fees.

In the event it is determined that a sales price in excess of that allowed by operation of this Chapter has been charged to an income-eligible household purchasing an ownership Affordable Residential Unit, the City may take the appropriate legal action to recover, and the Affordable Residential Unit seller shall be obligated to pay to the purchaser (or to the city in the event the purchaser cannot be located), any excess sales costs. In such an action, the City shall be entitled to recover its legal costs and reasonable attorney fees.

PLANNING COMMISSION STAFF REPORT

Meeting Date: October 27, 2009

From: David Woltering, Community Development Director

Subject: Amendments to the Clayton Municipal Code (ZOA 04-09) to Implement SB 1818, California's Density Bonus Law

BACKGROUND

At its October 13, 2009 meeting, the Planning Commission held a public hearing for the purpose of reviewing requirements of California Senate Bill (SB)1818, the density bonus law, with the intent of preparing and recommending to the City Council a local ordinance to formally implement this law. The basic intent of SB 1818 is to provide increased support for the construction of affordable housing in California. Prior to this law becoming effective on January 1, 2005, density bonuses up to 25% were available to developers in this State when 10%-20% of the housing units included in a proposed project were affordable to targeted household income groups. SB 1818 lowers the thresholds for eligibility for density bonuses, increases the maximum percentage of possible bonus to 35%, increases the number of incentives that local communities must offer to qualified development projects, and offers a land donation consideration, all as measures to increase the opportunity for the construction of affordable housing in California. A more detailed summary of the provisions of SB 1818 follows immediately below.

Triggers

Density bonuses of 20-35% are required for setting aside the following for a minimum of 30 years:

- 10% of housing units for lower income households;
- 5% of housing units for very low income households; and,
- 10% of a condominium project for moderate income or senior citizen development.

Number of Concessions or Incentives Required

- One (1) for 10% dedicated to low- or moderate income households, or 5% to very low income households;
- Two (2) for projects that dedicate 20% to low- or moderate income households, or 10% to very low income households; and,
- Three (3) for projects with 30% dedicated to low- or moderate income households, or 15% to very low income households.

Additional Provisions

- Applicants who donate at least 10% of their land to a city before the approval date of their development are entitled to 15-35% density bonus increase, subject to conditions; and,
- When a child care facility is involved, applicants will be entitled to matching square footage increase or a concession that contributes to the construction of such a facility, unless the city concludes adequate childcare facilities already exist.

Little Discretion for City to Deny

- Concessions shall be granted unless it is found that concessions are not required to provide affordable housing or the concession would have an adverse impact on public health or safety;
- Local bodies may not impose development standards that would preclude a development under these amendments absent a showing of a specified adverse impact; and,
- Denial of requested bonuses can result in a legal challenge by an applicant.

Ramifications on General Plan

- The granting of concessions shall not be interpreted to require general plan or similar amendments. All cities and counties are required to adopt an ordinance that specifies how they will comply with SB 1818 requirement.

DISCUSSION

At the October 13th Planning Commission public hearing on this matter, staff reviewed the requirements of SB 1818 with the Commission and received Commissioner comments. Commissioners acknowledged that various developer objectives, such as attempting to produce certain housing types to reach certain market segments and working with a property's physical constraints, often are reasons for them for not seeking the maximum bonuses or incentives that may be available. Commissioners also acknowledged that the Clayton community has a relatively small amount of developable land available. Consequently, it was not envisioned that, while the intent of SB 1818 to facilitate the construction of more affordable housing would have some benefit, the number of actual affordable units developed as a result of this law would likely not be substantial in Clayton. Commissioners requested that staff offer a variety of concessions to select from to recommend placing in the ordinance. Staff will provide a listing of specific concessions to consider at the meeting on October 27th. Finally, the Commission requested that staff provide a description of the possible land supply for affordable housing from the Draft 2009 Clayton Housing Element that is currently being reviewed by the State Department of Housing and Community Development (HCD). Staff has attached pages 71-80 from the Draft Housing Element that is under review to provide that information.

RECOMMENDATION

Staff recommends that the Commission review and provide comments only on the attached Draft Ordinance No. 426 at this public hearing. These materials are concurrently being forward to the City Attorney for review and comment. The implementation of SB 1818 is complex and will require advice and thorough review by the City Attorney before a formal action by the Planning Commission.

ATTACHMENTS

- A Resolution No.05-09 with Attached Draft Ordinance No. 426
- B Excerpted Pages 71-80 from the City of Clayton 2009-2014 Housing Element Update, dated June, 2009

ZOA\2009\04-09.sr1

Minutes
City of Clayton Planning Commission Meeting
Tuesday, October 27, 2009

Call to Order

Vice Chair Sandra Johnson called the meeting to order at 7:00 p.m. at Hoyer Hall, 6125 Clayton Road, Clayton.

Present: Vice Chair Sandra Johnson, Commissioner Tuija Catalano, Commissioner Ted Meriam, Commissioner Dan Richardson

Absent: Chair Bob Armstrong

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

Administrative

1A. Review of agenda items.

1B. Commissioner Richardson to report at the City Council meeting on November 3, 2009.

Public Comment

None.

Approval of Minutes

2. Approval of minutes from the meeting of October 13, 2009.

Commissioner Richardson moved and Commissioner Meriam seconded a motion to approve the minutes from the meeting of October 13, 2009, as amended. The motion passed 4-0.

Public Hearings

3A. **ZOA 03-09, Municipal Code Amendment, City of Clayton.** A public hearing regarding possible amendments to the Clayton Municipal Code to allow manufactured homes within the City of Clayton, consistent with the requirements of State law.

Assistant Planner Sikela presented the staff report.

Planning Commission questions and comments included:

- Have concerns that wording in proposed Section 17.36.078.C is unclear as to the intent for handling manufactured homes with respect to the properties designation on the National Register of Historic Places. Director Woltering indicated that this standard could be amended so that it merely refers to a manufactured home having to comply with the applicable Government Code section or the wording modified.
- We need to provide definitions for mobilehomes and mobilehome parks.
- Do we have a historic area of Clayton? Director Woltering responded that there is no specifically recorded historic district within Clayton.
- An intent of the ordinance is to require manufactured homes to visually blend with existing single-family residential development in Clayton.

- Our goal is to ensure that manufactured homes are architecturally compatible with surrounding structures and that includes prohibition of skirting and integration of walkway, driveway, flatwork, hardscape, and landscape components of the lot that the manufactured home is located on.
- By consensus, the Commission directed staff to incorporate the suggested changes and return with a revised draft amendment for review at the next regularly scheduled meeting.

Commissioner Catalano moved and Vice Chair Johnson seconded a motion to continue Municipal Code Amendment ZOA 03-09 to the next regularly-scheduled Planning Commission meeting on November 10, 2009. The motion passed 4-0.

- 3B. **ZOA 04-09, Municipal Code Amendment, City of Clayton.** A public hearing regarding possible amendments to the Clayton Municipal Code for the purpose of implementing the requirements of Senate Bill 1818 related to granting density bonuses and related incentives to support the construction of affordable housing in the City of Clayton.

Director Woltering presented the staff report.

Planning Commission questions and comments included:

- The quarter-mile radius requirement to a project for land donation may apply to larger cities, but it appears as an unnecessary restriction for a city like Clayton; land within Clayton that satisfies the other criteria mentioned should be considered.
- Do fractional unit numbers get rounded up to the next full number? Director Woltering responded "Yes."
- Explain Section 17.90.080. Director Woltering responded that Section 17.90.080 was intended for two different housing types: rental units and owner-occupied units. The objective of this section is generally to assure that affordable units blend with market-rate units. Rental affordable units are typically within multi-unit developments. In this circumstance, the affordable and market-rate units should be indistinguishable. In the case of "for sale" affordable housing units, these units are often not in multi-unit developments. In this circumstance, individual "for sale" affordable units may be smaller in size but have similar exterior architectural treatments as the market-rate "for sale" units.
- We should integrate "certificate of occupancy" within the last paragraph of Section 17.90.080 as a requirement within the development pipeline of projects qualifying for density bonuses.
- Wording should be added to Section 17.90.090 to ensure compliance with Government Code Section 65915(d)(1)(C).
- Definitions under Section 17.90.020 with respect to "rental" and "for sale" affordable housing should conform with the provisions of Government Code Section 50053(b)(3).
- Application under Section 17.90.030 should be modified to replace two (2) or more general dwelling units to five (5) or more general dwelling units.
- Land donation under Section 17.90.050 should be expanded to address the desired physical characteristics of land being offered for consideration. The City would not want to accept land that has limited building potential because of conditions of slope, flood plain, etc.
- Density bonus application under Section 17.90.130 should be expanded to include a submittal requirement to provide information that verifies the cost reductions anticipated as a result of the incentives and concessions being requested.

- Clarity under Section 17.90.170.D that monitoring and payment of fees shall be for the mandated term of the agreement.
- Does Clayton have an inclusionary housing ordinance? Director Woltering responded that Clayton does not have an inclusionary housing ordinance but, instead, has a Redevelopment Agency Project Area within which the City must require affordable housing.

Commissioner Richardson moved and Commissioner Catalano seconded a motion to continue Municipal Code Amendment ZOA 04-09 to the next regularly-scheduled Planning Commission meeting on November 10, 2009. The motion passed 4-0.

Old Business

4. None.

New Business

5. None.

Communications

- 6A. Staff.

Director Woltering indicated more immediate future Planning Commission projects will involve the following:

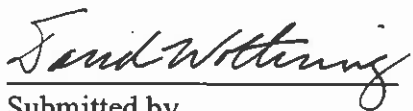
- Consideration of an amendment to the Municipal Code for the purpose of implementing the Water Conservation in Landscaping Act of 2006 as mandated by the State.
- Consideration of an amendment to the Municipal Code to extend the parking waiver period for specified projects proposed in the Town Center.

- 6B. Commission.

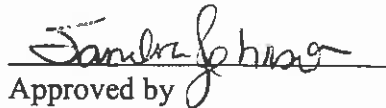
The Commission discussed with staff the regular upcoming Planning Commission meetings scheduled for November 10, November 24, and December 8, 2009 and the cancellation of the meeting scheduled for December 22, 2009.

Adjournment

7. The meeting was adjourned at 8:33 p.m.



Submitted by
David Woltering, AICP
Community Development Director



Approved by
Sandra Johnson
Vice Chair

Plng Comm\2009\Minutes\1027