



Agenda
Planning Commission Meeting
7:00 P.M. on Tuesday, February 26, 2013
Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton

CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Administrative

- 1A. Review of agenda items.
- 1B. Commissioner Bruzzone to report at the City Council meeting on March 5, 2013.

Public Comment

Approval of Minutes

- 2. Approval of minutes from the meeting of January 8, 2013.

Public Hearings

- 3A. **SPR 01-13, Site Plan Review Permit, Allen and Jeanine Blatter**, 113 Forest Hill Drive, APN 118-480-016. A request for a site plan review permit to consider the construction of a second-story balcony to be located on the rear of an existing two-story single-family residence. The balcony measures approximately 340 square feet in area and is located approximately 12 feet above ground level.

Proposed Action: Approve, with conditions.

- 3B. **GPA 01-13, City Property Acquisition Conformity with General Plan, City of Clayton**, APN 118-560-010. Review of City's Real Property Acquisition for conformity with the General Plan.

Proposed Action: Determine that the City's Real Property Acquisition is in conformity with the goals, policies, and objectives of the General Plan.

Old Business

- 4. None.

New Business

- 5. None.

Communications

- 6A. Staff – Introduction of Interim Community Development Director Kenneth Craig.
- 6B. Commission.

Adjournment

- 7. The next meeting of the Planning Commission is scheduled for **Tuesday, March 12, 2013**.

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
Clayton Planning Commission Meeting
Tuesday, January 8, 2013

Call to Order

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

Present: Chair Keith Haydon
Vice Chair Gregg Manning
Commissioner David Bruzzone
Commissioner Dan Richardson
Absent: Commissioner Sandra Johnson
Staff: Community Development Director David Woltering
Assistant Planner Milan Sikela, Jr.

CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Administrative

- 1A. Review of agenda items.
- 1B. Chair Haydon to report at the City Council meeting on January 15, 2013.

Public Comment

None.

Approval of Minutes

- 2. Approval of minutes from the meeting of December 11, 2012.

Vice Chair Gregg Manning moved and Commissioner Bruzzone seconded a motion to approve the minutes, as presented. The motion passed 3-0-2 (Chair Haydon and Commissioner Richardson abstained as they did not attend the December 11, 2012 Planning Commission meeting).

Public Hearing

- 3. **ZOA 02-12, Municipal Code Amendment, City of Clayton.** Consideration of a Universal Design Ordinance which would require that design features are offered in specified single-family residential units to make those units more visitable, usable, and safe for occupancy by persons with disabilities. In general, the intent and purpose of the Universal Design Ordinance is to provide greater adaptability and accessibility of specified housing for persons with disabilities.

Chair Haydon opened the public hearing.

Community Development Director David Woltering presented the staff report and indicated the following:

- During research for the Universal Design Ordinance (UDO), staff utilized the City of Dublin's UDO as a template for drafting the City of Clayton's UDO and spoke with Chief Building Official Gregory Shreeve at the City of Dublin.
- Other than the City of Dublin, other jurisdictions contacted by staff either did not know of the UDO or did not respond.

- When I talked to Mr. Shreeve from the City of Dublin, he indicated that the reality is that homebuyers are not choosing the design options offered by the UDO. Mr. Shreeve added, however, that one of the advantages of the UDO is the raising of community awareness regarding making homes more livable for aging homeowners and visitable for disabled persons visiting the home. At the end of the UDO approval process, the Mandatory to Install items were preferred over the Mandatory to Offer items. The Braddock and Carla Rosa subdivisions are two developments in Dublin that the Clayton Planning Commissioners may wish to visit to observe residential units with UDO design options installed.
- Given the low number of additional housing units that are projected to be constructed in Clayton in the coming years, the Planning Commission should decide if the small amount of potential UDO units that would be constructed would warrant establishing of UDO requirements in the first place.
- If the UDO is to be adopted, we want to make sure the ordinance is not onerous. There is value in trying to find a middle ground.
- The proposed threshold for the UDO requirements to be triggered is for any projects over five units in size (six or more units).
- The Planning Commission could either choose to have Mandatory to Offer items codified in the UDO or Mandatory to Install items such as doorbells, sink controls, hand-activated door hardware, rocker light switches, and receptacle outlets.
- Staff would like to highlight that a purchaser opt-out option would be codified as part of the Mandatory to Install items listed in the UDO.
- Project-specific conditions of approval could also be used to bolster the UDO requirements.
- Based on Commission direction at tonight's meeting, staff would bring back a draft ordinance for further refinement.
- There have been concerns expressed by members of the City Council that the UDO may burden the development community. The Commission needs to consider whether the UDO is overly-regulatory.

Chair Haydon had the following comments:

- Requiring universal design options in every plan type would be cumbersome for developers. It would be more reasonable to have universal design options offered in only one plan type.
- I agree that Mandatory to Install items seem a better choice than Mandatory to Offer items in that the Mandatory to Install items are not as cost-prohibitive as the Mandatory to Offer items yet the Mandatory to Install items still meet the intent of the UDO which is to make homes more livable/visitable for the elderly and disabled.
- It is good to include the purchaser opt-out option for Mandatory to Install items.
- A definition for "Building Official" should be provided.

Commissioner Bruzzone had the following comments:

- I agree with Chair Haydon.
- Prospective homebuyers may be surprised by the cost of the universal design items.
- It might be difficult for the UDO to be successful.

Director Woltering indicated the following:

- When I talked to Mr. Shreeve, he had explained that, when the UDO became effective in Dublin, City employees practiced due diligence to inform everyone about the UDO.

- If established in Clayton, staff would inform all developers and applicants of the UDO so that it could be offered to prospective homebuyers. To assist in this endeavor, staff would provide the UDO brochure at the counter as well as make it available on the City's website.
- The Mandatory to Install requirements would allow for baseline design features to be provided.
- Our goal as a community is to decide if we feel the UDO is important to implement.
- The Uniform Building Code already provides for these design features, but community awareness is not there.
- The cost for inclusion of the universal design features, whether they are the Mandatory to Install items or Mandatory to Offer items, would be borne by the homebuyer.
- Our objective is to blend to UDO with our current City regulations.
- It is a matter of economies of scale—is it a boon to Clayton to enact such regulations given the low level of development activity in the City?
- It is up to the Planning Commission whether we should implement the UDO in its entirety; implement the UDO in a scaled-back version; or, do as the General Plan Housing Element Implementation Measure indicates and investigate the potential of enacting such an ordinance and, based on the Commission's evaluation, decide that it is not worth pursuing since the Uniform Building Code already provides for universal design features.

Vice Chair Manning indicated that it would be good to know what the City Council thinks of the UDO.

Commissioner Richardson asked would the UDO be required in the Town Center Specific Plan Area? *Director Woltering responded no, it would not be required in the Town Center Specific Plan Area since the UDO applies to first-floor residential and it is anticipated that future residential development within the Town Center will occur mostly on the second floor.*

Commissioner Richardson had the following comments:

- I think the UDO is a terrific idea.
- These types of groundbreaking improvement require facilitators to make the good decisions.
- Doing what is right is important.
- We should look at the design components of the UDO that would be lower in cost to construct, such as the Mandatory to Install items. For instance, grab bars would only require that blocking be placed inside the wall so that, at a later date and if chosen by the homeowners, grab bars could easily be installed.
- It is worth it to continue working on the UDO and to look at versions of the UDO that avoid financially burdening those who foot the bill on such design features.
- We need to find the balance between requiring certain design features and not impeding development.

Vice Chair Manning had the following comments:

- I agree with Commissioner Richardson.
- Design features such as rocker light switches are a benefit to homeowners and occupants of any age or level of disability.
- My concern is that there is not enough development within Clayton to warrant implementation of the UDO.

Director Woltering indicated the following:

- I agree that the economies of scale are important to consider as we review the draft UDO and associated implications of establishing such an ordinance. There are projects that the UDO may be applicable to such as the proposed 59-unit Silver Oak Estates subdivision or, perhaps, future subdivisions that may be developed as part of the potential annexation areas east of Clayton.
- Staff has prepared a draft UDO brochure which would assist in raising awareness.

Commissioner Bruzzone had the following comments:

- I think the UDO is a great concept.
- The Mandatory to Install items are fairly inexpensive; however, alternatively, we want to ensure that costs are not prohibitive. We want to accommodate and facilitate development, not restrict it.

Chair Haydon had the following comments:

- There is definite value in the UDO.
- Like the brochure idea.
- We do not want to burden homebuyers.
- I agree that there is value in getting input from the City Council.
- We should utilize the Mandatory to Install items that are not as expensive and include blocking for grab bars as one of the Mandatory to Install items.
- Our objective is to try and create a balance.

Director Woltering gave an overview of the Planning Commission's direction to staff which, in summary, entailed the following:

- The Mandatory to Install items are preferred over the Mandatory to Offer items.
- Consideration should be given to reduce financial impacts to the homebuyer.
- Threshold requirement is omitted.
- Unit type requirement is omitted.
- Conditions of approval ensuring compliance with the UDO should be included.
- Utilize Mandatory to Install items, adding blocking for grab bars to the Mandatory to Install list.
- Mandatory to Offer items are omitted.
- Include the purchaser opt-out option.
- Modify both the brochure and draft ordinance and return to the Commission at a later date with the requested revisions for further review.

Assistant Planner Sikela indicated that the brochure, once finalized, could be attached to the application forms at the City Hall counter in addition to being available on the City's website.

Commissioner Richardson moved and Vice Chair Haydon seconded a motion to continue the item to a date uncertain to allow staff to make the requested revisions and return to the Planning Commission at a future meeting. The motion passed 4-0.

Old Business

4. None.

New Business

5. None.

Communications

6A. Staff.

Director Woltering indicated the following:

- Received calls from developers interested in the Creekside Terrace property, Stanley property, and property located on the west side of Marsh Creek Road south of the Town Center.
- I have been offered and have accepted a position as the Community Development Director for the City of San Bruno. It has been a fantastic experience here and I wish to thank everyone who I have worked with here at the City of Clayton. Milan has been very supportive during my tenure here. The position in San Bruno is a growth opportunity. Various projects I will be working on include the Corridor Plan on El Camino Real and San Mateo Avenue, the Crossings Development which has hundreds of units, new Cal Train Station, new Bart Station, and projects related to the San Francisco International Airport which is located directly adjacent to and east of San Bruno. San Bruno is a beautiful community with many dynamic aspects that will be very challenging for me.

6B. Commission — None.

Vice Chair Manning indicated the following:

- You will be missed, David.
- It was a pleasure great working with you.

Commissioner Richardson indicated the following:

- It will be a great opportunity for you in San Bruno.
- I have thoroughly enjoyed working together.

Commissioner Bruzzone indicated the following:

- Thank you for the great work you have done for the City of Clayton.
- We will miss having you here.

Chair Haydon indicated the following:

- I agree with all of the comments made by the other Commissioners.
- We have been impressed with your work from day one.
- You have a comfortable style that is very professional.
- San Bruno will be lucky to have you as their Community Development Director.

Adjournment

7. The meeting was adjourned at 8:40 p.m. to the regularly-scheduled meeting of January 22, 2013.

Submitted by
Milan J. Sikela, Jr.
Assistant Planner

Approved by
Keith Haydon
Chair

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PLANNING COMMISSION STAFF REPORT

Meeting Date: February 26, 2013

From: Milan J. Sikela, Jr. 
Assistant Planner

Subject: Second Story Balcony at 113 Forest Hill Drive
Site Plan Review Permit (SPR 01-13)

REQUEST

A site plan review permit to consider a proposed second-story balcony to be located on the rear elevation of a two-story single-family residence.

PROJECT INFORMATION

Applicants/Location: Allen and Jeanine Blatter
113 Forest Hill Drive
Clayton, California 94517
APN 118-480-016

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

Zoning: Planned Development (PD).

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

Public Notice: On February 13, 2013, a public hearing notice was posted at the notice boards and mailed to property owners within 300 feet of the site.

Agency Referrals: The City Engineer had no comments. 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 Clayton Municipal Code (CMC) authorizes the Planning Commission to approve a site plan review permit in accordance with the standards of review in CMC Section 17.44.040.

BACKGROUND AND ANALYSIS

The applicant is requesting Planning Commission approval of a site plan review permit to consider a proposed second-story balcony to be located on the rear elevation of a two-story single-family residence. The proposed balcony measures 340 square feet in area and is located 12 feet above ground level at the top of the deck and 15 feet, 6 inches at the top of the safety railing. The vicinity map, site plan, and architectural elevations are provided as **Exhibit A**.

The applicant is proposing to construct the balcony with complementary colors and materials through use of the following:

- Brown earth tone colors on the deck portion of the balcony (see **Exhibit B** for deck color example);
- “Autumn Rose” stone veneer masonry elements around the bases of the support columns (see **Exhibits C and D** for the masonry examples);
- Columnar treatments for the balcony supports (see **Exhibit E** for column examples);
- “Frenchwood” gliding patio doors (see **Exhibit F** for French door example) which will replace the existing second-story master bedroom window in order to allow ingress and egress to the balcony; and
- Decorative balustrades for the balcony safety railing (see **Exhibit G** for balustrade example).

The applicant has provided a photograph of the subject area of the existing rear elevation (see **Exhibit H**). Staff notes that the column examples have been provided to show the Commission a range of column design types that the applicant is choosing from; the applicant will decide which type of column design is preferred at once construction of the balcony commences. From staff’s perspective, these proposed design components ensure complementary visual integration and aesthetic consistency with the existing residence.

Setback Analysis

The existing rear setback to the residence is 23 feet. The proposed rear setback after the balcony is constructed will be 18 feet from the rear property line, complying with the Peacock Creek Planned Development rear setback requirement. Since the balcony is only impacting the rear setback, the existing side and front setbacks of the residence will not change.

Residential Floor Area Analysis

Section 17.78.030.D.3 of the Clayton Municipal Code excludes balconies from floor area calculations “where at least one of the longest dimensions is unenclosed.” Since the balcony is unenclosed, it is exempt from the floor area requirements.

Conclusion

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

RECOMMENDATION

Staff recommends that the Planning Commission approve Site Plan Review Permit SPR 01-13, based upon the findings of approval and subject to the conditions of approval outlined below.

Proposed Findings of Approval

Based upon the evidence set forth in the staff report, which includes relevant information from the project file, as well as testimony at the public hearing, the Planning Commission makes the following findings that Site Plan Review Permit SPR 01-13, as conditioned:

1. Is consistent with the General Plan designation and policies.
2. Meets the standards and requirements of the Zoning Ordinance.
3. Preserves the 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 Condition of Approval

This condition of approval applies to the Blatter Balcony Vicinity Map, Site Plan, and Architectural Elevations, prepared by Nanco Architectural Services, date stamped February 7, 2013; Deck Color Example, prepared by Azek Deck, date stamped February 7, 2013; Photographic Example of Stone Veneer, submitted by the applicant on February 7, 2013; Brochure Example of Stone Veneer, prepared by East West Stone, submitted by the applicant on February 7, 2013; Photographic Examples of Column Design Styles, prepared by Superior Aluminum, date stamped February 7, 2013; Brochure Example of French Doors, prepared by Andersen Windows and Doors, submitted by the applicant on February 7, 2013; Photographic Example of Balustrades, prepared by Outdoor Fireplace Plus, date stamped February 7, 2013; and Photograph of Existing Rear Elevation of Subject Residence, taken by the applicant, date stamped February 7, 2013.

1. The applicant agrees to indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including, but not limited to, attorney's fees, costs, 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, and any environmental review conducted under the California Environmental Quality Act for this entitlement and related actions.

Advisory Notes

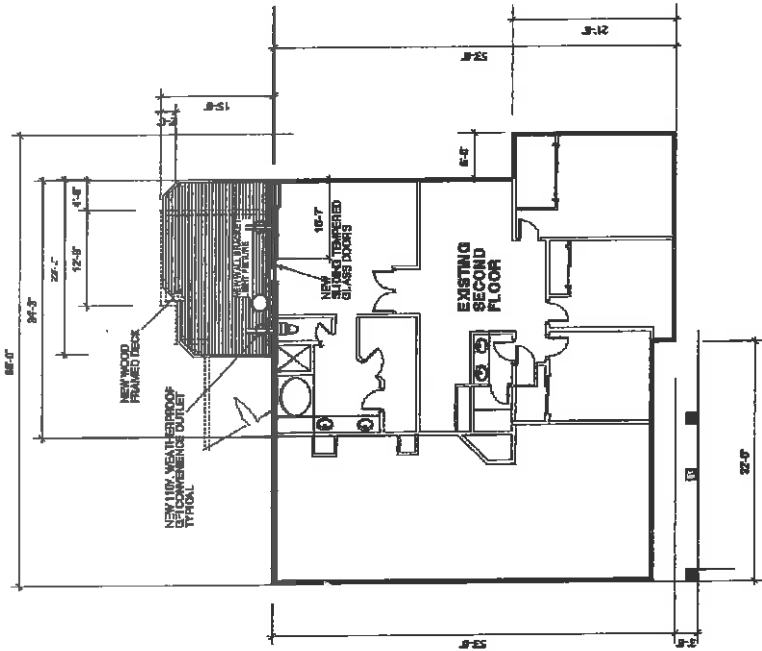
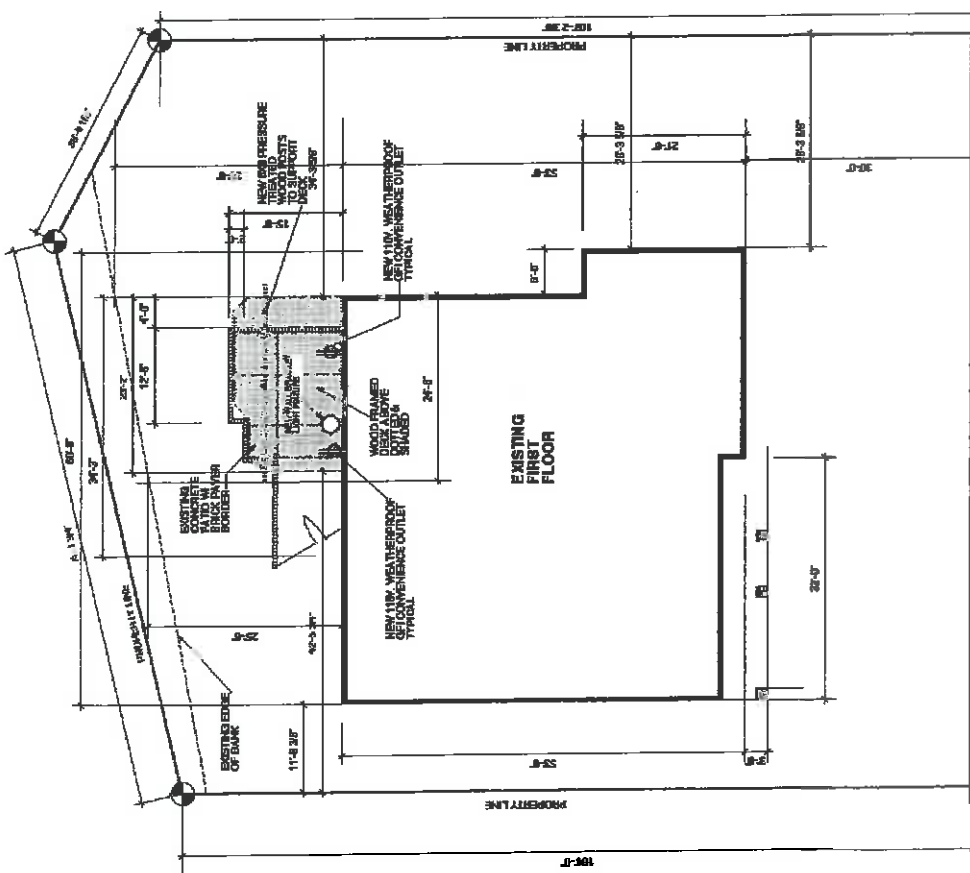
Advisory notes are provided to inform the applicant of: (a) Clayton Municipal Code requirements; and (b) requirements imposed by other agencies. The advisory notes state requirements that may be in addition to the conditions of approval.

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. 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 null and void (CMC § 17.64.010-17.64.030).
3. All 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 specifically authorized in writing by the City Engineer (CMC § 15.01.101) located at 5375 Clayton Road, Concord, 925-363-7433.
4. The applicant shall obtain the necessary building permits from the Contra Costa County Building Inspection Department.
5. 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.
6. If the project site is located within an area subject to covenants, conditions, and restrictions (CC&Rs) administered by a homeowners' association (HOA), additional requirements and/or approvals may be required by the HOA. Before proceeding with the project, it is advisable to check with the HOA to ensure any applicable requirements are met.

EXHIBITS

- A Blatter Balcony Vicinity Map, Site Plan, and Architectural Elevations, prepared by Nanco Architectural Services, date stamped February 7, 2013
- B Deck Color Example, prepared by Azek Deck, date stamped February 7, 2013 (to be provided at February 26, 2013 Planning Commission meeting)
- C Photographic Example of Stone Veneer, submitted by the applicant on February 7, 2013
- D Brochure Example of Stone Veneer, prepared by East West Stone, submitted by the applicant on February 7, 2013 (to be provided at February 26, 2013 Planning Commission meeting)
- E Photographic Examples of Column Design Styles, prepared by Superior Aluminum, date stamped February 7, 2013
- F Brochure Example of French Doors, prepared by Andersen Windows and Doors, submitted by the applicant on February 7, 2013 (to be provided at February 26, 2013 Planning Commission meeting)
- G Photographic Example of Balustrades, prepared by Outdoor Fireplace Plus, date stamped February 7, 2013
- H Photograph of Existing Rear Elevation of Subject Residence, taken by the applicant, date stamped February 7, 2013

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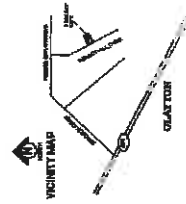
SECOND FLOOR PLAN SCALE 1/8"=1'-0"

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CLAYTON COMMUNITY DEVELOPMENT DEPT

RESIDENCE

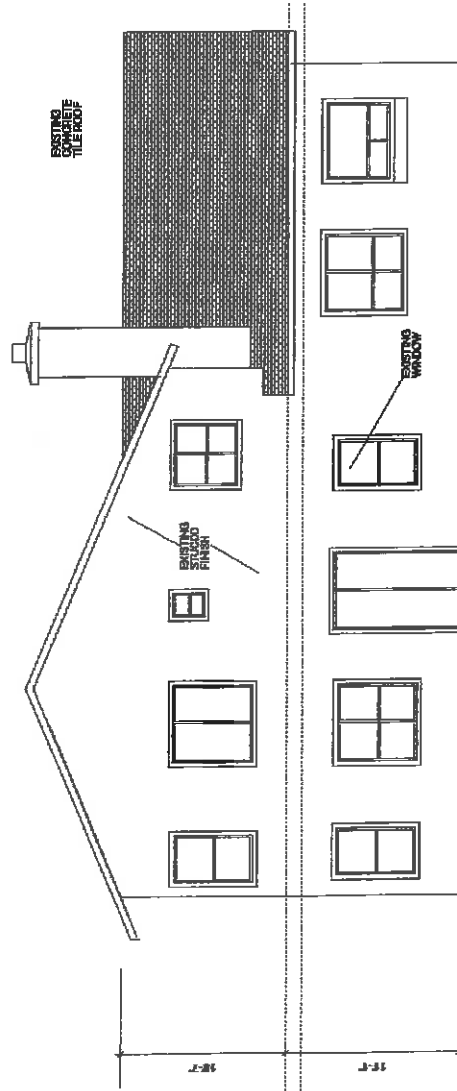


INDEX OF DRAWINGS

- A1 DECK PLAN ELEVATIONS
- S1 GENERAL NOTES
- S2 FOUNDATION DETAILS
- S3 ROOF FINISH DETAILS

DESCRIPTION OF WORK

CONSTRUCT NEW DECK FROM SECOND FLOOR ABOVE EXISTING PATIO



BACK ELEVATION SCALE 1/4"=1'-0"

A2

113 FOREST HILL DRIVE, CLAYTON, CALIFORNIA

• real stone veneer • *Autumn Rose*

Exhibit C

Superior extruded aluminum [round](#) and [square fluted](#), [square panel](#) or [square smooth columns](#) recreate traditional elegance at very affordable prices. Fashioned from sturdy long-lasting aluminum, these smartly [styled columns](#) are perfect for either remodeling or new construction.

Our aluminum columns are versatile, too. They can be used to create a classical mood on homes, churches, office buildings, schools, libraries, motels, museums and other public buildings. Residential or commercial, indoors or out, beautiful aluminum columns are the low-cost way to add a touch of class to your architectural designs.

Superior Aluminum Columns provide the elegance you want in a low- maintenance column. With several styles available in a variety of [pre-painted colors](#), they complement any structure and offer several advantages compared to wood or other alternative materials.



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Round Fluted Columns



Square Fluted Columns

Exhibit E

to a graceful taper at the smooth top. Our fiberglass columns whether [round](#), [fluted](#), or [square](#) are specially constructed for all types of decorative and [load-bearing installations](#) and have architecturally correct proportions and projections. The Greeks used the word "entasis" to describe their columns... you will call them "beautiful". They are perfect for indoor and outdoor applications and ideal for both residential and commercial use.

Whether it's for new construction or remodeling, beautiful [Superior](#) fiberglass columns are the low-cost way to add a touch of elegance and detail to your architectural designs that will [last a lifetime](#). They are manufactured from high density, highly advanced fiberglass polymers that [resist impact damage](#) and are virtually maintenance-free.



Round Smooth Columns



Round Fluted Columns

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Square Smooth Columns



Square Panel Columns



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deck railing,_5.jpg 345x205 pixels



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**CLAYTON COMMUNITY
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Exhibit H

PLANNING COMMISSION STAFF REPORT

Meeting Date: February 26, 2013

From: Kenneth Craig *pk*
Interim Community Development Director

Subject: City Property Acquisition General Plan Conformity
(GPA 01-13)

BACKGROUND AND DISCUSSION

On January 31, 2013, the City Council adopted a Resolution agreeing to purchase one parcel of unimproved real property (APN 118-560-010) in the Town Center Specific Plan Area from the Clayton Community Church. The property is approximately 1.66 acres (please see attached City Council staff report for additional details and location map).

The City Council has given authority to the Planning Commission to implement the requirements of Section 65400 of the California Government Code “to investigate and make recommendations to the City Council regarding reasonable and practical means of implementing the General Plan or elements of the General Plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open space and natural resources” including “the effective expenditure of public funds relating to the subjects addressed in the General Plan”. Therefore, a Planning Commission determination of conformity of said action by the City Council is required.

Staff has provided citations from the Clayton General Plan below related to the action of property acquisition which is believed to demonstrate conformity with the General Plan.

Goals — Land Use Element

8. To ensure an adequate tax base for Clayton
9. To create and maintain an attractive Town Center area and to make it the commercial, civic, and heritage focus for the community.

Staff Comment: The acquisition of the 1.66-acre parcel will assist the City in its efforts to ensure that the property will develop consistent with the Town Center Specific Plan which emphasizes commercial, retail, and restaurant uses with a heritage focus. Expanding retail and restaurant uses, in addition to providing local retail shopping and services opportunities, will assist in ensuring an adequate tax base for Clayton.

Commercial

Policy 4b — Maintain the Town Center and Commercial areas of Kirker Pass and Road and Marsh Creek Road as the sole areas of commercial development.

Staff Comment: The City purchase of the property supports this policy to maintain the Town Center as one of the three commercial areas for the City.

Objective 11 — To create a cohesive, attractive and vibrant pedestrian-friendly ambiance within the Town Center, with as few breaks as possible in the shopping frontage.

Staff Comment: City ownership of the largest and most visible properties in the Town Center area will provide the City with an enhanced ability to accomplish this Objective of the General Plan.

Policy 11a — To promote the land uses necessary to strengthen and enhance the Town Center including specialty retail shops and restaurants.

Staff Comment: City ownership of this property will afford the opportunity for the City to promote the land uses consistent with the General Plan and Town Center Specific Plan.

Per the Governor's Office of Planning and Research, "An action, program, or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment."

RECOMMENDATION

Staff recommends that the Planning Commission determine that the City's Real Property Acquisition is in conformity with goals, policies, and objectives of the Clayton General Plan.

EXHIBITS

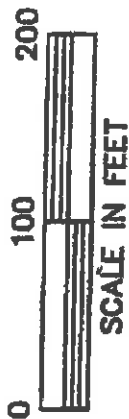
- A City Council Staff Report dated January 31, 2013
- B Property Acquisition Location Map

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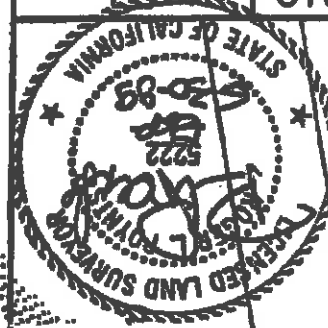
CURVE TABLE		
CURVE	LENGTH	DELTA
C1	31.57'	25°50'27"
C2	31.57'	25°50'27"
C3	19.88'	42°39'25"
C4	18.93'	120°3'14"
C5	25.88'	05°23'37"

NOTES:

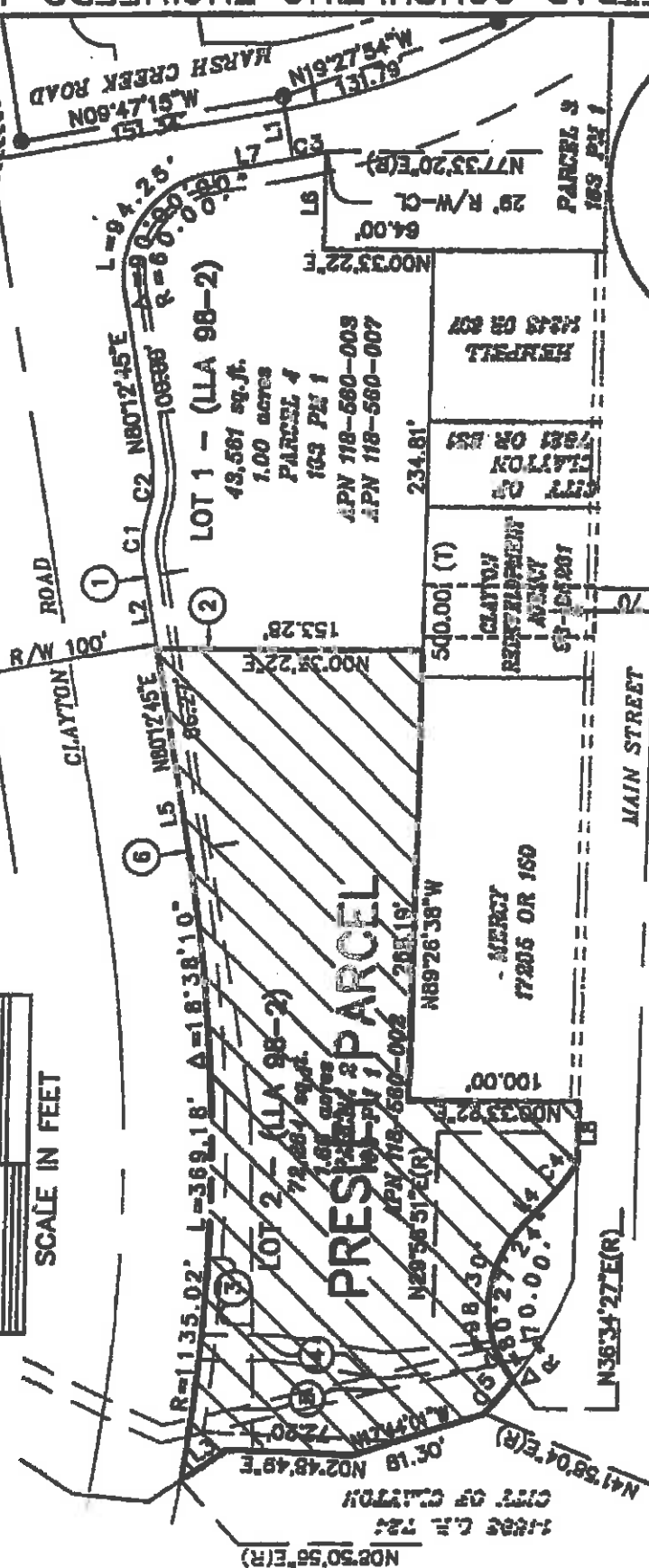
1. 8' PUBLIC UTILITY EASEMENT (163 PM 1)
2. NEW ADJUSTED LOT LINE
3. SLOPE EASEMENT (163 PM 1)
4. 15' WIDE PEDESTRIAN EASEMENT (163 PM 1)
5. 10' SEWER EASEMENT (163 PM 1)
6. 12' WIDE SLOPE EASEMENT (163 PM 1)



SCALE IN FEET

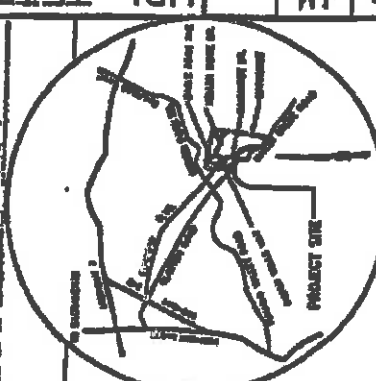


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5528 PACHECO BLVD., PACHECO, CA 94553 (925) 674-0218
PRESLEY PARCEL
EXHIBIT 'B'
SCALE: 1" = 100'
DATE: 6-1-98
GRANT AND AGREEMENT OF EASEMENTS



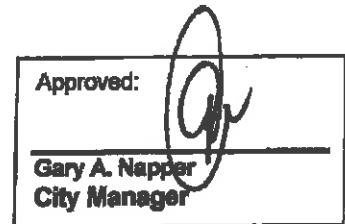
LINE TABLE		
LINE	LENGTH	BEARING
L1	37.00	N80°12'52"E
L2	49.59	N80°12'45"E
L3	31.22	N34°48'21"W
L4	30.80	N47°59'55"W
L5	58.83	N80°12'45"E
L6	57.04	N89°28'38"W
L7	46.34	N08°47'15"W
L8	35.55	N89°28'36"W

ACCESS
EASEMENT



VICINITY MAP

APPROVED:	
SURVEY:	
CHECKED:	R.L.P.
DRAWN:	J.M.



AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CITY MANAGER

DATE: 31 JANUARY 2013

**SUBJECT: CONSIDERATION OF CITY PURCHASE OF UNIMPROVED REAL PROPERTY
APPROXIMATELY 1.66 ACRE PARCEL IN THE CLAYTON TOWN CENTER**

RECOMMENDATION

Following staff report and public comment, it is recommended the City Council adopt the attached Resolution approving and authorizing the City of Clayton's purchase of unimproved real property (APN 118-560-010-1), generally located adjacent to and north of Main Street in the Clayton Town Center, which real property is presently held in title by the Clayton Community Church.

BACKGROUND

In June 2012 representatives of the Clayton Community Church inquired of the City whether it would be interested in purchasing the church's real properties located on Main Street in the Clayton Town Center. By way of letter dated 20 June 2012 the Clayton City Council responded it did wish to explore such an option to purchase pending the procurement of an independent market value appraisal of both parcels. The City further encouraged the church to move ahead and list both of its parcels for private sale, which action did occur through the church's listing with Colliers International.

Subsequently the City retained the professional services of Thomas E. Dum Real Estate Appraisers, Inc. to perform market value appraisals of both real properties presently held in title by the Clayton Community Church (APN 118-560-010-1, approx. 1.66 acres; and APN 119-011-003-9, approx. 0.57 acre). For general identification purpose, the larger parcel is the unimproved land which fronts on Clayton Road and Main Street while the smaller parcel houses a wood building holding the Clayton Community Church offices and has a street address of 6055 Main Street. The vacant large parcel is zoned Planned Development (PD) and the smaller parcel is zoned Limited Commercial (L-C). The Thomas Dum appraisal firm had previously performed property appraisals for the City within the Clayton Town Center area (e.g. the Flora Square land site; vacant property now improved as the parking lot for Endeavor Hall).

The appraisal report was received by the City on 16 August 2012 and the City Council then held a series of subsequently-noticed closed sessions to discuss its options and consider potential terms and conditions of any real property acquisition. The City Council formed an ad-hoc committee of itself comprised of Mayor Julie Pierce and Council Member David Shuey which then met with church representatives (along with the City Manager) to discuss and negotiate any prospective purchase of one or both pieces of real property.

After a series of negotiation exchanges covering the span of several months, the parties have agreed to a mutually-acceptable price and terms for the City's purchase of the larger unimproved parcel (APN 118-560-010-1) from the Clayton Community Church. As is often the case with significant land purchases, the devil is in the details and it has finally reached the point wherein both parties are satisfied and in agreement with the written terms and conditions to the sale/purchase of this one piece of land.

NOTABLE TERMS AND CONDITIONS

Following the preliminary and tentative agreement to the key deal points, the City retained the firm of Fugro Consultants (Oakland) to perform a Phase I Environmental Site Assessment for the subject property. Shortly after authorization of the scope of work by the City, the church found its document of similar work conducted on the real property, dated October 2007, prepared by AEI Consultants in behalf of the church when it originally purchased the land. Consequently, the Fugro Consultant work was downscaled by the City to simple consultant services for review of the earlier Phase I Report and document their subsequent findings. Fugro identified no recognized environmental conditions for this assessment and recommends no further hazardous materials assessment is warranted at this time.

Attached to this Staff Report is a Resolution for the City Council's approval with the following documents covering the terms and conditions of the sale-purchase of this real property:

- A. Real Property Purchase and Sale Agreement and Joint Escrow Instructions;
- B. Grant Deed;
- C. Access Easement Deed and Agreement;
- D. Assignment and Assumption of Easement; and
- E. Resolution of the Board of Directors of the Clayton Community Church.

Regarding significant terms and conditions of the Agreement, the outline below lists the major tenets of the real property transaction:

1. The purchase price will be \$1,000,000.00 (one million dollars) cash paid into escrow by the City of Clayton. This amount is within the parameters of the market appraisal report procured by the City.

2. The church will provide, in the name of the City, a "floating" 20 feet to 24 feet wide easement across the church's smaller land parcel (APN 119-011-003-9) to be in the area generally located to the west of the existing wood building. The purpose of this easement is to improve traffic circulation across the front parcel on Main Street and to/from the City-purchased larger parcel. The exact location of the easement will be determined in the future development phase of either parcel.
3. The City obtains a First Right of Refusal to consider its additional purchase of the smaller parcel should/once the church identifies a bona fide purchaser. Once provided the details, should the City decline to exercise its priority right to purchase the smaller parcel, the City is given further right(s) to reconsider should the private sale purchase price be adjusted by fifteen percent (15%) or more from the last price notification given to the City by the church. The City has ten (10) days, or sooner, to respond to the church regarding its First (and any subsequent) Right of Refusal.

Escrow is to open within seven (7) days of approval by both parties and the escrow closing date is the earlier of: (a) on or before the fifth (5th) business day following the Escrow Agent's receipt of written confirmation from both Seller and Buyer of the satisfaction or waiver of all conditions precedent to the close of escrow; or (b) March 15, 2013. The closing date may be extended for up to six (6) months without further City Council approval.

PUBLIC PURPOSES FOR THE LAND PURCHASE

As local pundits will recall, the City of Clayton has long held an interest in the commercial development of this particular parcel (ref. Town Center Specific Plan), and even in the potential public purchase of the land in order to control and manage its development land use. The 1.66 acre parcel is one of the last remaining unimproved parcels of land in the Clayton Town Center area, and it matches the City Council desire and objective to enhance its oversight and to determine the parcel's ultimate development opportunity by acquiring title to the property.

At a minimum, the real property land purchase provides the City with diversity in its investment portfolio since public title to the parcel offers an investment return other than interest earnings from cash deposits in the Local Agency Investment Fund (LAIF) or various certificates of deposit.

FISCAL IMPACT

With the state of California's abrupt and ill-advised dissolution of redevelopment agencies in California commencing February 2012, the City no longer has available to it property tax increment revenues from the Clayton Redevelopment Agency (RDA) for purchase of this parcel for downtown economic development purposes, an action once the icon of successful redevelopment agencies in California. This fact presented significant financial challenges to the City in its consideration of this potential land purchase.

However, within the City's Capital Improvement Project (CIP) Budget, sufficient monies exist in the Downtown Economic Development Project Account coupled with other project savings and interest earnings to manage payment of the \$1 million purchase price. Therefore, adoption of the Resolution will also authorize the allocation of \$1,030,000.00 within the City's CIP Budget to a new account, CIP Land Acquisition Project (CIP No. 3017 -- 303-7520-00) to underwrite the monetary purchase of the parcel plus additional monies for legal counsel expenses, escrow fees and other related expenses (\$30,000).

According to Finance Manager Merry Pelletier, there are sufficient monies in the CIP Budget to fund this land acquisition yet it will severely limit the City's future financial capabilities to perform other capital improvement projects or downtown economic development enhancements.

Attachments: City Resolution [2 pp.] + documents

RESOLUTION NO. - 2013

**A RESOLUTION APPROVING THE REAL PROPERTY PURCHASE
AND SALE AGREEMENT BETWEEN THE CITY OF CLAYTON AND
THE CLAYTON COMMUNITY CHURCH**

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

WHEREAS, the Clayton Community Church ("Church") is the owner of real property located in downtown Clayton also known as APN 118-560-010-1 ("Property"); and

WHEREAS, the Church has listed this Property for sale and the City is interested in acquiring the Property; and

WHEREAS, the City and Church have negotiated a purchase and sale agreement, which includes, but is not limited to joint escrow instructions, and an access easement deed and agreement ("Agreement"); and

WHEREAS, the parties desire to execute the Agreement; and

WHEREAS, City staff has determined that the City's approval of the Agreement is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15061(b)(3), because it cannot be seen with any certainty that such approval will involve any additional commitment to any specific project which may result in a potentially significant physical impact on the environment.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLAYTON THAT:

SECTION 1. The City Council does hereby find and affirm the above-noted recitals are true and correct and hereby incorporated in the body of this Resolution as if restated in full.

SECTION 2. The City Council does hereby approve the Agreement between the City and the Church, which is attached hereto and incorporated herein by reference. The City Council hereby authorizes and directs its City Manager (with the concurrence of the City Attorney) to execute and deliver on behalf of the City the Agreement and any documents and instruments as may be necessary or convenient in the furtherance of the actions authorized by this Resolution.

SECTION 3. The City Council hereby authorizes and directs City staff to file a Notice of Exemption for the City as a lead agency under CEQA within five (5) days from the adoption of this Resolution.

SECTION 4. The City Council does hereby authorize the allocation of \$1,030,000.00 in the City Capital Improvement Project Budget to a new account, CIP Land Acquisition Project (CIP No. 3017-303-7520-00) to effect the City's purchase of said Property.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Clayton, California, at a special public meeting thereof held on January 31, 2013 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Julie K. Pierce, Mayor

ATTEST:

Laci J. Jackson, City Clerk

Attachment:

Real Property Purchase and Sale Agreement and Joint Escrow Instructions

I certify that the foregoing Resolution was duly and regularly passed by the City Council of the City Clayton, California at a special public meeting held on January 31, 2013.

Laci J. Jackson, City Clerk