



Agenda
Planning Commission Meeting
7:00 P.M. on Tuesday, March 12, 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 Johnson to report at the City Council meeting on March 19, 2013.

Public Comment

Approval of Minutes

- 2. Approval of minutes from the meeting of February 26, 2013.

Public Hearing

- 3. **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. *Continued from the meeting of February 26, 2013.*

Proposed Action: Approve, with conditions.

Old Business

- 4. None.

New Business

- 5. None.

Communications

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

Adjournment

- 7. The next meeting of the Planning Commission is scheduled for **Tuesday, March 26, 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, February 26, 2013

Call to Order

Chair Haydon called the meeting to order at 7:04 p.m. at Hoyer Hall, 6125 Clayton Road, Clayton.

Present: Chair Keith Haydon
Vice Chair Gregg Manning
Commissioner David Bruzzone
Commissioner Sandra Johnson
Commissioner Dan Richardson

Absent: None

Staff: Interim Community Development Director Kenneth Craig
Assistant Planner Milan Sikela, Jr.

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

None.

Approval of Minutes

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

Vice Chair Gregg Manning moved and Commissioner Richardson seconded a motion to approve the minutes, as presented. The motion passed 4-0-1 (Commissioner Johnson abstained as she did not attend the January 8, 2013 Planning Commission meeting).

Public Hearing

- 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.

Chair Haydon opened the public hearing.

Assistant Planner Milan Sikela distributed a letter in opposition to the project and presented the staff report.

Commissioner Richardson had the following questions and comment:

- Did staff receive any comments or concerns from the occupants of the residences located downslope and to the rear of the subject property. *Assistant Planner Sikela indicated that, as of this date, none of the occupants of the residences located downslope and to the rear of the subject property had provided comments or concerns to staff.*
- What is the location of the property that provided the letter of opposition? *Assistant Planner Sikela indicated that the property in opposition to the project was located directly east of and adjacent to the subject property.*
- We need to look at the grade difference between the subject property and the adjacent property to the east of the subject property.

The applicant, Jeanine Blatter, provided the following comments after distributing photographs she had taken from her back yard (where the balcony is proposed to be located) looking toward adjacent properties to the east, north, and west:

- Our proposed balcony will not block the view (one of concerns raised in the letter of opposition) of the property east of and adjacent to our property.
- There are redwood trees located west of our property which will someday grow to block the view of both our property and the property east of and adjacent to our property.
- In our subdivision, many of the residences that are the same model as our residence have existing second-story balconies.

Chair Haydon indicated that, from the photographs provided by the applicant, it appears that the property east of and adjacent to the subject property is much higher in elevation than the subject property.

Commissioner Johnson indicated that, given that the subject property is much higher than the adjacent properties to the north along Pebble Beach Drive, it would seem that the balcony would be more visible to the Pebble Beach Drive properties than to the property east of and adjacent to the subject property.

Commissioner Richardson asked the applicant if, from the side window in her master bedroom, she could see into the back yard of the property located east of and adjacent to her property. *The applicant responded that there is a large tree located outside of her master bedroom's side window that screens the neighboring property's back yard from her view.*

Chair Haydon indicated that the railing of the proposed balcony could be designed to be less obtrusive visually, making the view beyond the balcony easier to see.

Commissioner Johnson asked the applicant if she would be willing to install plants on the side of the deck facing the property east of and adjacent to your property in order to address the privacy concerns raised by the adjacent homeowner in the letter of opposition. *The applicant responded that, yes, she was planning to put plants on the deck; however, more plants on the deck would create more blockage of the neighbor's views.*

Vice Chair Manning asked the applicant if there are windows located on the east side of the second story of your residence. *The applicant answered, yes, there are existing windows on the east side of the second story of our residence.*

Chair Haydon opened up the public testimony period. There were no public comments. The public testimony period was closed.

Chair Haydon indicated that the difference in elevation between the subject lot and the adjacent lot to the east actually reduces the visual impact of the balcony, in both view and privacy terms.

Chair Richardson indicated that the ability to intrude on privacy is not exacerbated with the balcony since the windows on the side of the subject residence already do.

Chair Haydon indicated that it would be a good idea to conduct a site inspection to the property east of and adjacent to the subject property to get a better idea of the potential visual impacts.

Commissioner Johnson indicated that, as the applicant explained, there are other existing second-story balconies in the area on homes that are the same model as the subject residence.

Vice Chair Manning indicated that it does not appear that the balcony will obstruct the view of the neighboring property.

Chair Haydon indicated that it important to address the neighbor's concerns.

Commissioner Richardson indicated that he would like an opportunity to look at the project vis-à-vis the concerns raised by the neighbor and give proper representation to the neighbor's concerns.

Commissioner Bruzzone indicated that it would be appropriate to conduct a site visit to the neighboring property to show due diligence in addressing the neighbor's concerns.

Commissioner Richardson moved and Commissioner Manning seconded a motion to continue the public hearing to the next regularly-scheduled meeting of the Planning Commission on March 12, 2013. The motion passed 5-0.

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

Chair Haydon opened the public hearing.

Director Craig presented the staff report.

Commissioner Bruzzone had the following questions:

- What is the Planning Commission's role in this process? *Director Craig indicated that the decision-making body—which, in Clayton's case, is the City Council—has the power to delegate General Plan conformity review of the City's real property acquisition to the Planning Commission (or other decision-making body).*

- Government Code Section 65402 regulates this requirement, correct? *Director Craig responded yes, Government Code Section 65402 requires that the Planning Commission review the City's real property acquisition in order to determine whether or not the real property acquisition conforms with the goals, policies, and objectives of the General Plan. Tonight's review of this item is not unlike the Planning Commission's review of CIP conformity with the General Plan.*
- I just want to make sure we did not need further analysis of this item.

Chair Haydon indicated that, typically, the analysis that is provided in the General Plan conformity review staff report is sufficient enough. *Director Craig indicated that he analyzed the General Plan conformity review using the General Plan goals, policies, and objectives. These citations support the City Council adoption of the resolution to purchase one parcel of unimproved real property in the Town Center Specific Plan Area from the Clayton Community Church.*

Commissioner Johnson confirmed that the Planning Commission's review is more general in nature rather than specific. *Director Craig indicated Commissioner Johnson's statement was correct. There is great latitude for the City Council and Planning Commission with regard to legislative decisions made by the Planning Commission and City Council. During your review of this item, you are interpreting your legislation through use of the General Plan.*

Commissioner Richardson indicated that it is only the purchase of the property that is being assessed. There is no analysis of any project associated with the property. Actual analysis of any project associated with the property would occur during project review and processing.

Vice Chair Manning asked if there were a minimum number of General Plan goals, policies, and objectives that should be used. *Director Craig indicated that there is case law requiring consistency with General Plan elements but the Commission does not have to go through every single element in the General Plan. The review is for general conformity and general compliance.*

Chair Haydon opened up the public testimony period. There were no public comments. The public testimony period was closed.

By consensus, the Commission determined that the City's Real Property Acquisition is in conformity with the goals, policies, and objectives of the Clayton General Plan.

The public hearing was closed.

Vice Chair Manning moved and Commissioner Richardson seconded to determine that the City's Real Property Acquisition is in conformity with the goals, policies, and objectives of the Clayton General Plan. The motion passed 5-0.

Old Business

4. None.

New Business

5. None.

Communications

6A. Staff.

Director Craig introduced himself as the new Interim Community Development Director and provided a brief history of his career starting as an intern for the San Francisco Port Commission during his college years at UC Berkeley before moving on to a private planning firm in Berkeley followed by tenures with the City of Madera, City of Livermore, Livermore Area Recreation and Park District, City of Modesto, and the City of Ceres. After the introduction, Director Craig provided updates on the Marsh Creek Road Specific Plan, Silver Oak Estates project, Keith Bradburn dentist office expansion, Toll Brothers having the Diablo Estates below market rate unit falling out of escrow, the Housing Element update, and Lenox Homes—the developers of the Mitchell Creek Place subdivision in the Town Center—contacting City staff for possible future residential developments in Clayton.

6B. Commission.

Commissioner Richardson indicated that, at the most recent TRANSPAC meeting he attended on February 14, 2013, they discussed metering on Highway 4 on-ramps.

Chair Haydon indicated that he, during his report at the City Council meeting on January 15, 2013, he sought feedback from the Councilmembers regarding the Universal Design Ordinance and was informed by City Attorney Malathy Subramanian that such feedback could not be sought from the City Council without proper noticing.

Adjournment

7. The meeting was adjourned at 8:20 p.m. to the regularly-scheduled meeting of March 12, 2013.

Submitted by
Kenneth Craig
Interim Community Development Director

Approved by
Keith Haydon
Chair

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PLANNING COMMISSION STAFF REPORT

Meeting Date: March 12, 2013

From: Milan J. Sikela, Jr. 
Assistant Planner

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

This staff report supplements the staff report dated February 26, 2013

BACKGROUND AND ANALYSIS

On February 26, 2013, the Planning Commission held a public hearing to review a request for approval of a site plan review permit to allow the construction of a proposed second-story balcony to be located on the rear elevation of a two-story single-family residence at 113 Forest Hill Drive. As mentioned in the February 26, 2013 staff report, 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.

Before the February 26, 2013 Planning Commission meeting, the property owners of 115 Forest Hill Drive—the neighboring property adjacent to and east of the subject property—submitted a letter in opposition to the project (see **Exhibit I**). In summary, the grounds of opposition listed in the letter pertain to reduction of privacy, blocking of views westward toward Clayton Valley and Diablo Valley, and reduction of property values.

At the request of the Planning Commission, staff conducted a site visit on February 27, 2013 at 115 Forest Hill Drive in order to analyze the concerns raised in the letter (photographs from the site visit are provided as **Exhibit L**). After completing the site visit, staff had the following conclusions, as listed below.

Preservation of View

There is a difference of approximately ten feet in pad elevations between 115 Forest Hill Drive (termed “neighboring property”) and the subject property at 113 Forest Hill Drive, with the neighboring property’s pad elevation being ten feet higher than the pad elevation of the subject property. The pad elevation of the subject property being ten feet lower would place the deck component of the balcony at slightly above ground level of the neighboring property. To someone standing in the back yard of the neighboring property looking toward the subject property, eye level would be approximately five to six feet above the deck component and two to three feet above the top of the railing of the balcony. Additionally, the railing of the balcony is proposed to be designed with vertical balustrades which allow areas further west of the balcony to be seen (as opposed to, for instance, a wall, fence, or other solid structure which would visually screen areas further west). As a result, staff concludes that the balcony would result in negligible blockage of views.

Furthermore, when looking from the rear wall of the neighboring residence (which would be located on the same plane as the rear windows where a person would look out from), the view westward down Irish Canyon toward Clayton Valley, Diablo Valley, and the Carquinez Straight would be of a more west-northwest orientation rather than due west toward the proposed location of the balcony. As one moves northward in the back yard of the neighboring property (essentially moving away from the rear plane of the neighboring residence and toward the rear property line of the neighboring property), the angle of the sightline shifts further away from the balcony, rendering the balcony even less obtrusive. From the northern (rear) portion of the neighboring property's back yard, the comparatively smaller massing of the balcony would blend completely into and be eclipsed by the much larger massing of the existing subject residence and residence further west of the subject residence. Based on the angle of the sightline and the existing massing of the adjacent residences, the balcony would result in nominal protrusion (at the rear plane of the neighboring residence) to no additional protrusion at all (in the northern portion of the neighboring property's back yard) into the western view corridor.

Lastly, an existing fence located on the west (left) side of the neighboring property is approximately four feet tall, rather than being the typical six-foot height that is normally associated with residential side yard fencing. Given the four-foot height of the existing side yard fence (the top of which would be higher in elevation than the top of the railing of the proposed balcony), this shortened fence height results in a unique circumstance where the top of the balcony railing will be more easily seen than if the side yard fence was six feet in height. Even with the shorter height of the existing side yard fence, this fence provides more blockage of views (because of it being a solid structure) than the balcony would.

Privacy Issues

The subject residence currently contains several windows on the side elevation that face toward the neighboring property and neighboring residence. From staff's perspective, the impacts upon privacy already exist as a result of the window locations on the subject residence and would not be exacerbated by the balcony, especially given that the neighboring residence is ten feet higher in elevation than the subject residence.

Conclusion

Staff has reviewed the design aspects of the proposed plans relative to the standards for Site Plan Review Permits and has also conducted a site visit to address the concerns raised in the letter and has determined that the project, as conditioned, is in conformance with the Zoning Ordinance 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-H Provided in the February 26, 2013 Planning Commission Staff Report
- I Letter from Robert L. Otteson and Annette M. Otteson, date stamped February 26, 2013
- J Google Earth Satellite Image (Site Plan View) of 113 Forest Hill Drive and 115 Forest Hill Drive
- K Google Earth Satellite Image (Northwest View out of Irish Canyon)
- L Photographs from the Back Yard of 115 Forest Hill Drive, taken by staff during a site visit conducted on February 27, 2013

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February 25, 2013

Received

FEB 26 2013

City of Clayton

RE: Building Permit for Decking at 113 Forest Hill Drive, Clayton, CA 94517

To Whom it May Concern:

My Wife and I reside at 115 Forest Hill Drive (Next Door to the subject property). Since we will not be able to attend the meeting this evening due to out of town travel, we wish to submit this document in opposition to the above plan. We moved into our home only last November (2012). In purchasing our home, one of the primary criteria was to find a quiet place with a view and no neighbors overlooking a private backyard. We found this location which met all these criteria. Unfortunately, what is now being proposed next door, will negate these benefits we saw in this home. We rise in opposition to this plan on the following grounds:

- (1) The large size and elevation of the proposed deck will significantly reduce our back yard privacy.
- (2) The deck and expected contents of same, will partially block our view down into Clayton Valley and Concord Valley.
- (3) As a result of #1 and #2 above, the premium paid for our property will be severely reduced due to these objections.

We ask that you consider the impact on our diminished living ambiance and not approve this construction project. It is simply unfair to authorize our neighbor to expand his view and living space to the detriment of our view and living atmosphere.

Sincerely,

Robert L. and Annette M. Otteson

115 Forest Hill Dr.
Clayton, CA 94517











