



AGENDA MEMO

CITY COUNCIL MEETING DATE: OCTOBER 3, 2007
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: ABEYANCE - DIR-21753 - APPLICANT/OWNER: RONALD D. DILLE AND MARILYN I. DILLE TRUST

THIS ITEM WAS HELD IN ABEYANCE FROM THE AUGUST 15, 2007 CITY COUNCIL MEETING AT THE REQUEST OF COUNCILWOMAN TARKANIAN.

**** CONDITIONS ****

The Planning Commission (5-0 vote) and staff recommend DENIAL.

**** STAFF REPORT ****

APPLICATION REQUEST

This is an Appeal of Director's decision per Title 19.18.110.H to deny a Home Occupation Permit for a proposed accounting firm at 312 Broxton Lane.

EXECUTIVE SUMMARY

The applicant applied for a Home Occupation Permit to allow a proposed accounting business at a private residence and was denied because the applicant refused to consent to the required condition that there shall be no transacting of business or offers to transact business with customers or clients who have come to the property. The applicants justification letter explains that client visitation to the property is minimal and would be restricted to the tax season; therefore, the business would not be detrimental to the health, safety and welfare of the community. Staff affirms the Title 19 requirements for Home Occupation Permits on the grounds that residences with such permits should, in all respects, maintain the appearance of a residential dwelling. Violation of the operational standards encourages business activity that is noticeable by the neighborhood. Therefore, denial of this appeal is recommended.

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
05/03/07	Planning and Development staff denied an application for a Home Occupation Permit for an accounting firm at 312 Broxton Lane. A denial letter was sent to the applicant with a copy to the Finance and Business Services Department.
05/03/07	Planning and Development Department staff received a request to appeal the Directors decision to deny the Home Occupation Permit.
06/14/07	The Planning Commission voted 5-0 to recommend DENIAL (PC Agenda Item #68/ss).
<i>Related Building Permits/Business Licenses</i>	
05/09/07	The Department of Finance and Business Services denied a business license application (Q22-99338) for an accounting firm at 312 Broxton Lane. In addition to the denial of a Home Occupation Permit for the use at this location, the license application was incomplete and the applicant failed to correct the deficiencies. The application was placed in inactive status.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.21 acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single Family Detached	L (Low Density Residential)	R-1 (Single Family Residential)
North	Single Family Detached	L (Low Density Residential)	R-1 (Single Family Residential)
South	Single Family Detached	L (Low Density Residential)	R-1 (Single Family Residential)
East	Single Family Detached	L (Low Density Residential)	R-1 (Single Family Residential)
West	Single Family Detached	L (Low Density Residential)	R-1 (Single Family Residential)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan			
Airport Overlay (200 Feet)	X		Y
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts		X	N/A
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

ANALYSIS

The subject property contains a single family detached dwelling and is surrounded by similar uses. According to Title 19.18.110.A, a home occupation is an incidental or secondary use so located that the average neighbor, under normal circumstances, would not be aware of its existence. The Director is authorized to approve home occupations in these locations if the operational standards supporting that definition can be shown to be satisfied. One of these conditions states that there shall be no transacting of business or offers to transact business with customers or clients who have come to the property. Per Title 19.18.110.G(3), the Director shall deny any Home Occupation Permit that does not substantially conform to the operational standards.

The applicant states in her justification letter that her accounting business does not fit the above operational standard. According to the Department of Finance and Business Services, the business has been in operation for at least four years. Only recently was the applicant informed that a license was required to legally conduct the business. Over the course of this years tax preparation season, approximately 25 clients visited the property.

FINDINGS

The operational standards were established to ensure that residences maintained the appearance of a residential use and not a commercial use. Allowing clients to come to the property to do business, no matter the number, not only violates a specific code requirement, but encourages other businesses to do the same. This defeats the purpose of the Home Occupation Permit. Alternatively, the applicant can choose to visit clients at their homes to do business or to obtain a license to do business at a commercially zoned location. Denial of the appeal is therefore recommended.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 11

ASSEMBLY DISTRICT 3

SENATE DISTRICT 3

NOTICES MAILED 266 by Planning Department

APPROVALS 0

PROTESTS 8