

**Mayor**  
William Siegel  
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Lois Wynne  
**Council Members**  
Ray Madrigal  
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Willard Rodarmel



**Public Works /  
Planning**

711 W. Cinnamon Drive  
Lemoore, CA 93245  
Phone (559) 924-6704  
FAX (559) 924-6708

## Staff Report

ITEM 4-3

**To:** Lemoore City Council  
**From:** Judy Holwell, Project Manager   
**Date:** August 14, 2014  
**Subject:** Appeal by Home Owner Claudia Peinado for a Partial Denial of a Home Occupation Application for Antonio's Tree Service

### Discussion

A Home Occupation application was received from Claudia Peinado for a tree trimming business – Antonio's Tree Service. The property is located at 900 N. 19<sup>th</sup> Avenue and is zoned Low Density Residential. Staff researched this item extensively in an effort to approve the application. However, our Code does not allow vehicles over three-quarter ton to be parked at the residence and only occupants of the home may work at the site. Therefore, employees would not be permitted to come to the site to retrieve the trucks and other equipment. Staff approved the home office portion of the application, but had to deny the storage of the vehicles. The property owner is appealing staff's decision.

The potential approving methods that staff researched are as follows:

1. Conditional Use Permit – This method is not allowed in residential zones.
2. Temporary Use Permit – This method specifically states that the use must be consistent with the General Plan. Both the General Plan and Zoning Map identify the site as Low Density Residential, so it is not allowed. Additionally, the use must be temporary. It states that in no event shall the extension be longer than 24 months.
3. Non-Conforming Use – This method is only for uses that were already being conducted at a site when a change to the Zoning Code would have made the use no longer in conformance. In this particular case, the use was not previously being conducted at the site. Therefore, this method is not allowed.
4. Variance – This method does not allow changes in land use.
5. Special Zoning Exception – This method is not included in our current Zoning Ordinance. Therefore, it is not an option.
6. General Plan Amendment and Zone Change – The property owner could pursue a General Plan Amendment and Zone Change. However, legally the City is not

*"In God We Trust"*

permitted to approve spot zoning. Additionally, the area may be best served by keeping the sites residential, since the property across the street is zoned for a proposed K-8 school.

Our City Planner, Steve Brandt, recommends adding language to the Zoning Ordinance to allow City Council to make modifications to the standard conditions of a Home Occupation Permit when special circumstances are found. In the case of the tree trimming business, the following findings could be made to allow Council an opportunity to approve such use:

1. The parcel is approximately one acre in size (.98+/- acre).
2. The adjacent properties include a PG&E substation (1.3+/- acres) directly north of the site, which is more of a light industrial type of use, and an agricultural type use, that was grandfathered in, to the south, owned by Brad and Debbie Vlotho (3.64+/- acres). The properties across the street (west) and behind the subject site (east) are single family residential subdivisions, as can be seen in the attached aerial view. The vacant property across the street to the south is zoned and has a General Plan designation for a future K-8 school.
3. The property is located on an arterial, as opposed to a local street.
4. The home occupation request is for a home office and storage of their tree trimming vehicles and equipment (two vehicles over  $\frac{3}{4}$  ton, a chipper/shredder, and a boom air lift). There will be no other business performed at the site.

Because of the findings listed above, staff is not opposed to a tree trimming business at that location. Council may consider the proposed use as perfectly acceptable too. However, there is currently no method in which Council can approve this item. Since this is a legal matter, our City Attorney has prepared a legal opinion to show that staff acted appropriately and to provide advice on Council's options. Attached for your review are the application, letter denying truck and equipment storage, appeal letter, legal opinion, letter from the Vlotho's and an aerial of the site.

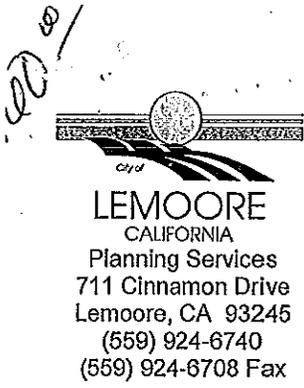
Staff recommends adding language to the Zoning Ordinance to allow Council to make modifications to the standard conditions of a Home Occupation Permit when special circumstances exist. Additionally, staff recommends that Council deny the appeal without prejudice. By denying without prejudice, it makes it clear to the appealing party that they may reapply if language is added to the Zoning Ordinance allowing Council to make such modifications.

#### **Budget Impact**

None.

#### **Recommendation**

It is recommended that Council, by motion, deny the appeal without prejudice and direct staff to prepare language to amend the Zoning Ordinance to allow Council the ability to make modifications to the standard conditions of Home Occupation Permit when special circumstances exist.



HOME OCCUPATION PERMIT APPLICATION  
(Pursuant to Section 9-2B-9 & 9-4D-5)

924-6740  
Kristie

A Home Occupation is an activity carried out within a home in a residential district which use is secondary to the use of the structure for dwelling purposes. All home occupations shall meet the standards on the backside of this application.

Daycares serving 8 (eight) or fewer persons are exempt from City approval, but may involve State licensing. Large daycares for 7-14 require Administrative Use Permit. Prohibited uses are listed on the back of this form.

A completed application should be filed with the Planning Department. The following material constitutes a completed application:

- a. Application form completed.
- b. Sketch plan showing the existing home, off-street parking and portion of the home to be used as home occupation.
- c. If renting or leasing, owner signature below.
- d. Per Section 9-4D-5C-2, if major home occupation, the following will be required: a map showing all properties within 300 ft. radius of the subject home, a list of names and addresses of those properties from the Kings County Tax Roll, not more than 30 days old, certified by Kings County and typed on mailing labels of said addresses.
- e. Application filing fee.

Peinado K Not Pernado

GENERAL INFORMATION

1. APPLICANT/DESIGNER: Antonio & Claudia Peinado  
 Name: Antonio & Claudia Peinado  
 Address: 900 19th Ave Lemoore  
 Telephone: 559 585-1708 924-2505  
 Fax: " "  
 Email: Antonio's Tree Service

2. PROPERTY OWNER: (if other than applicant, signature required)  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Fax: \_\_\_\_\_  
 Email: \_\_\_\_\_

Applicants

SITE & DESCRIPTION OF REQUEST

3. Location/Address of Home Occupation: 900 19th Ave Lemoore Ca.  
 4. Type of Home Occupation: Personal @ and business Paper work - (office)  
 5. Rent or Own property? OWN  
 6. Number of off-street parking spaces available: \_\_\_\_\_  
 7. Zone District: RLO  
 8. Assessors Parcel Number: 021-670-004  
 9. Describe in detailed description of the business and its operation: Tree Service, trimming, pruning, stump removal, grinding, shaping, lacing  
 10. Will the home occupation involve sales of products (retail trade)? NO  
 11. What percentage of the home floor area or square footage will be used for the home occupation? office 15x15 sq. ft.  
 12. Will the home occupation have any employees/partners? Yes Husband (Antonio)  
 13. How much foot and car traffic is anticipated as a result of the home occupation? None no customers  
 14. What kinds of equipment and materials will be used/or stored on the premises for the home occupation? Boom air lift & Chipper shredder  
 15. What type of noise, if any, will be emitted from your home as a result of the proposed activity? None

3

16. How many and what type of vehicles will be used/or stored on the premises to conduct home occupation?  
4 trucks will be stored Tree Trimming Trucks (2 are for personal use)  
 17. Number of signs proposed (must be submitted with design, dimensions and location of each sign): None  
 18. Are there any CC&R's (Conditions, Covenants & Restrictions) that apply to your property which prohibits home occupations? NO  
 If yes, explain: \_\_\_\_\_

19. Owner's Signature: [Signature] 20. Date: April 10, 2014  
 21. Print Name: Claudia Peinado  
 22. Applicant's Signature: [Signature] Antonio 23. Date: June 12, 2014  
 24. Print Name: Claudia Peinado

I certify that the information provided above is true and correct and contains a full description of the work being done on the site. I understand that should I modify or add to the work described herein, I may have to submit a new application if the tasks are not exempt from City approval or move or alter my business if it is not allowed in a residential neighborhood. By signing this application I have read and understand the City Standards for home occupations generally listed on reverse side of this form and I understand that the approved permit will be subject to complying with the attached standards at all times. This permit may be revoked if it is determined by the City that any of the attached standards are not being met. Applicant must also obtain a business license prior to starting business.

**MINOR HOME OCCUPATION:** (Section 9-4D-5C-1) i. home occupations are characterized as small scale operations that blend in with the surrounding residential neighborhood and are not immediately discernable. These types of occupations do not generate higher levels of traffic than that customarily found in a residential neighborhood, involve limited interaction with goods and materials for retail trade, and are uses where no customers visit the home. Examples include, but are not limited to, a) art and craft work such as ceramics, flower arranging, jewelry making, painting, sculpting, and photography; b) electronic and other "by mail" commerce involving the storage and shipping of goods and products from the home and; c) Office uses such as an office for a tax preparer, contractor, architect, attorney, consultant, counselor, engineer, insurance agent, planner, tutor, data and or word processing, and real estate agent where no customers come to the home.

**MAJOR HOME OCCUPATION:** (Section 9-4D-5C-2) Major home occupations are more intensive operations that may have a noticeable impact on surrounding residential land uses as a result of increased traffic (vehicular and pedestrian), the shipment of goods beyond those customary for a residential neighborhood, or noise or odor. Examples include, but are not limited to, a) furniture stripping and refurbishing, b) mobile clinics; and c) Office uses such as an office for a contractor, architect, attorney, consultant, counselor, engineer, insurance agent, planner, tutor, data and or word processing, and real estate agent where fewer than five (5) customers come to the home per day. (Major Home Occupations require public notification as described in Section 9-2B-9D of the Zoning Code)

**CITY STANDARDS per Section 9-4D-5E**

"It is the intent of the following standards to reduce the impact of the home occupation to the degree that its effects on the neighborhood are undetectable from normal and usual residential activity. These standards shall apply to both major and minor home occupation permit applications. Failure to comply with these standards will result in revocation of the home occupation permit and/or business license."

1. **Number of Home Occupations:** There is no limit on the number of home occupations at a residence provided that the performance standards identified in this section are met.
2. **Employees:** Off-site employees or partners are not permitted. Only occupants of the home may work on-site.
3. **Habitable Floor Area:** The use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purposes. Not more than one hundred fifty (150) square feet or fifteen percent (15%) of the floor area of the dwelling, whichever is less, shall be used in the home occupation.
4. **Off-Site Effects:** There shall be no mechanical equipment or operation used which creates or makes dust, odor, vibration, or other effects detectable at the property line. No process shall be used which is hazardous to public health, safety, morals, or welfare.
5. **Sales:**
  - a. On-site sales. There shall be no products sold on the premises except artist's originals or products individually made to order on the premises.
  - b. Off-site sales. Off-site sales, including electronic and mail order commerce, shall be permitted.
6. **Display:** There shall be no display of products produced by occupants of the dwelling which are visible in any manner from the outside of the dwelling unit.
7. **Traffic:** The use shall not generate pedestrian or vehicular traffic beyond that which is normal in a residential district nor in any case require the parking of more than two (2) additional vehicles at any one time.
8. **Vehicles:** One truck or van, not more than three-quarter (3/4) ton capacity, may be kept on or adjacent to the premises associated with the home occupation. No campers or semi-trailers incidental to the home occupation shall be kept on the premises.
9. **Storage:** There shall be no storage of material or supplies out-of-doors.
10. **Exterior Appearance:** There shall be no remodeling or construction of facilities especially for the home occupation which changes the external appearance of the neighborhood from a residential to a more commercial look when viewed from the front of the building.
11. **Signs:** Sign shall be allowed for the home occupation in accordance with article 9-5F (signage).
12. **Visitors and Customers:** Visitors and customers shall not exceed those normally and reasonably occurring for a residence, including not more than eight (8) a day, during the hours of eight in the morning (8:00 a.m.) to seven in the evening (7:00 p.m.).
13. **Deliveries:** Deliveries shall not exceed those normally and reasonably occurring for a residence. Deliveries of materials for the home occupation shall not involve the use of commercial vehicles except for Fed Ex, UPS, or USPS-type home pickups and deliveries.
14. **Hazardous Materials:** Storage of hazardous materials is limited to below those thresholds as established by the fire department to not require any special permits or licenses.

**PROHIBITED HOME OCCUPATION ACTIVITIES per Section 9-4D-5E**

- |   |   |
|---|---|
| 1. Ambulance service;   | 11. Palm reading and fortune telling;   |
| 2. Ammunition reloading, including custom reloading;                          | 12. Private clubs;  |
| 3. Boardinghouse, bed and breakfast hotel, time share condominium;            | 13. Repair or reconditioning of boats or recreation vehicles;   |
| 4. Carpentry, cabinetmakers;  | 14. Restaurants or taverns;   |
| 5. Ceramics (kiln of six (6) cubic feet or more);                             | 15. Retail sales from site (except direct distribution of artist's originals and electronic and mail order commerce); |
| 6. Firearms repair or sales;  | 16. Storage, repair, or reconditioning of major household appliances;   |
| 7. Health salons, gyms, dance studios, aerobic exercise studios;              | 17. Storage, repair, or reconditioning of motorized vehicles or large equipment on-site other than personal use;      |
| 8. Massage therapy;   | 18. Tattoo service;   |
| 9. Medical, dental, chiropractic, or veterinary clinics (including boarding); | 19. Tow truck service;  |
| 10. Mortician, hears service;   | 20. Welding service.  |

*[Signature]* ANTONIO  
*[Signature]* Claudia  
 Applicant Signature

X June 12 2014  
 X June 12 2014  
 Date

(By signing this form, applicant indicates that they have read and understand the above standards for home occupation.)

**FOR OFFICE USE ONLY**

File Number: 2014-12 Date filed: June 28-14 Receipt No.: 27339 Fee Paid: 160.00  
 Minor  Major Home Occupation approved: \_\_\_\_\_ Date: \_\_\_\_\_  
 If appealed, City Council Review action on: \_\_\_\_\_

**Mayor**  
William Slegel  
**Mayor Pro Tem**  
Lois Wynne  
**Council Members**  
Eddie Neal  
Willard Rodarmel



**Public Works/  
Planning Services  
Department**  
711 W. Cinnamon Drive  
Lemoore, CA 93245  
Phone (559) 924-6740  
FAX (559) 924-6708

July 8, 2014

Mr. Antonio Carrilto and  
Ms. Claudia Peinado  
900 N. 19<sup>th</sup> Avenue  
Lemoore, CA 93245

RE: Home Occupation Permit Application – 900 N. 19<sup>th</sup> Avenue  
Notice of Denial of a Portion of your Application

Dear Mr. Carrilto and Ms. Peinado;

Thank you for meeting with staff to review your application. As we discussed, staff continued to diligently research methods to approve your request to operate a tree service business at 900 N. 19<sup>th</sup> Avenue, including the storage of your tree service trucks and equipment. Unfortunately, the storage of your vehicles at the site cannot be approved in a residential zone. Our office has, however, approved the use of 150 square feet of space in your home for your tree service business office. The Home Occupation Permit is enclosed, please read it carefully and keep it for your records. The Conditions of Approval are listed on the reverse side of the Permit.

The Lemoore Municipal Code, Section 9-2A-8, allows you to file an appeal within ten (10) calendar days following the final date of the determination being appealed (date of this letter). All appeals shall be submitted, in writing, to Planning Services located at 711 W. Cinnamon Drive together with the name, address, phone number, and signature of the appellant, and the required filing fee (\$50). The written appeal shall specifically state the pertinent facts of the case and the basis for the appeal. A Public Hearing will then be noticed and scheduled during a Regular Meeting of the City Council. Following the Hearing, Council may approve, modify, or disapprove your request in part or in whole.

Please do not hesitate to contact our office at 924-6740 with any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Judy Holwell", written over a horizontal line.

Judy Holwell  
Project Manager  
Planning and Economic Development

received  
7-17-14

July 17, 2014

City of Lemoore  
Public Works/Planning Services Department  
711 W. Cinnamon Drive  
Lemoore, CA 93245

**RE: Appeal**

Home Occupation Permit Application-900 N. 19<sup>th</sup> Avenue  
Mr. Antonio Carrillo and Ms. Claudia Peinado  
900 N. 19th Avenue  
Lemoore, CA 93245

**To Whom It May Concern:**

According to the Lemoore Municipal Code, Section 9-2A-8, which allows the applicant to file an appeal within ten (10) calendar days following the final date of the determination being appealed, we are submitting a letter of appeal in regards to the notice of denial stating that the storage of our vehicles cannot be approved in a residential zone which was denied by the Planning Service committee dated July 8, 2014. We are asking that the Planning Service committee please reconsider our request and grant our approval for the following reasons stated below.

For many people, one of the biggest financial transactions they'll ever make is to purchase a home. That's why it was important for us to do it right. Purchasing our home on .98 acres of land would start realizing our business and homeowners dream. We took great consideration on the location and found Lemoore, CA to be the perfect town in which to raise our family and build our small business. We also found that Lemoore had attributes that put it at the top of our list not only to raise our children, but to establish our family business. It was very disheartening to read the Notice of Denial of a Portion of our application. In which it states that the storage of our vehicles at the site cannot be approved in a residential area.

We have invested a great amount of time and funds to improve the property and to blend in with the residential areas that surround our property. For example, we added a concrete driveway which required seven truck loads of concrete. We also removed the propane tank which was located in front of our home which was very costly. We also added stucco siding for home improvement. These are only a few items from our long list of renovations that we have done to not only improve our property but that of the community.

We have enclosed a letter from our neighbors, Mr. and Mrs. Vlotho who stated how we have dramatically improved this property in the short time we have lived here. They also mention that it has been a great improvement for the entire neighborhood. They include information in their letter that we find difficult to understand as to the reason our request was denied. Mr. and Mrs. Vlotho state in their letter, "Both properties adjacent to 900 N. 19<sup>th</sup> Ave., PGE substation and our property are grandfathered properties

from county annexation and vehicles/trucks are parked on them.” They also state that a business had been operated on the property in the past. Since our .98 acres lies between both county properties, what makes our property unique? We never imagined we would find ourselves in this situation. We purchased the property by what we assumed would be a perfect site and lot to begin a home occupation.

Although our tree cutting business provides a variety of services, including tree branch trimming and tree cutting and stump removal, all business is conducted off site. There is **absolutely** no business other than phone calls conducted from our residence. We have no visible business advertisement posted on our property. Because we have invested many years of hard work and savings into acquiring our equipment, we are asking for the approval to park our vehicles for storage and safe keeping only. We can assure you that no process shall be used which could be hazardous to the public health. We will abide and follow all regulations as required if permitted. Please take into consideration the benefits of keeping our small business in your community.

Thank you for taking the time to consider our request. Please contact us by e-mail or phone if you have any questions at [claudia-peinado@hotmail.com](mailto:claudia-peinado@hotmail.com) or (559) 924-2505.

Respectfully,

Antonio Carrillo  
Claudia Peinado

Handwritten signature of Antonio Carrillo and Claudia Peinado. The signature is written in cursive and appears to be a single line of text that includes both names.

“Enclosure”

July 9, 2014

To: City Of Lemoore

RE: 900 N. 19<sup>th</sup> Ave, Lemoore, CA – Antonio's Tree Service

From: Brad & Debbie Vlotho, 820 & 860 N. 19<sup>th</sup> Ave, Lemoore, CA

In discussion with our neighbors ( Antonio Carillo and Claudia Peinado ) they shared with us that the City of Lemoore has told them they cannot park trucks on their residential property.

It should be made clear to all City officials that Antonio and his family have dramatically improved this property. Prior to them moving in, the place was run down and kids were hanging out and vandalizing it further. It has been a great improvement for the entire neighborhood.

Also, this is not a subdivision property. Both properties adjacent to 900 N. 19<sup>th</sup> Ave, one which is ours and the other PGE substation are grandfathered properties from county annexation and vehicles/trucks are parked on them. The 900 N. 19<sup>th</sup> Ave property is a special property. In the past, a business has been operated out of it, including a vehicle repair shop. We have never witnessed Antonio conducting business on this site, but only parking 2 trucks and then leaving for work in the morning. Antonio's trucks cannot be seen from our property or the street.

Antonio and his family are a good neighbors and citizens of Lemoore. The City of Lemoore should grant him an exception based on the pure fact that his property is not in a subdivision and is adjacent to properties in similar situations all of which were once county properties. It is our understanding that City said "no exceptions to the rules" and that would be somewhat understandable if the property were a common residential area, but it is not and positively there are situations where the "rules" are and have been broken.

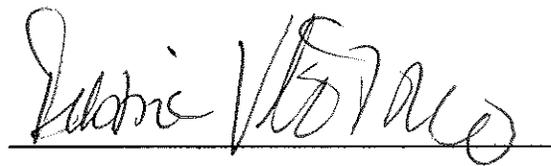
Please give consideration to making an exception for Antonio's Tree service. We are quite sure some agreement can be reached, and would hope that the City officials are working to help in this situation rather than just follow a set of rules that do not always make common sense in every situation.

If you have any further questions, please reach us at the numbers listed below. We sincerely hope that an exception will be granted in this case.



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Brad Vlotho 559-707-8474



---

Debbie Vlotho 559-707-8473



1900 N 19th Ave Lemoore, CA 93245, USA

Evergreen Ave

Noble St

19th Ave





7404 N. Spalding Avenue, Fresno, California 93720-3370  
Telephone: (559) 431-5600 Fax: (559) 261-9366

**MEMORANDUM**

**DATE:** August 14, 2014

**CLIENT/MATTER:**  
1943-06

**TO:** City Council  
City Manager  
Judy Holwell

**FROM:** Laurie Avedisian-Favini *LA*

**RE:** Opinion Regarding Home Occupation Permit, Tree Trimming Service

City staff has asked for an opinion regarding whether the City has discretion on appeal to approve a home occupation permit that was properly denied in part by City staff. For the reasons discussed below, we conclude that the City Council on appeal does not have such discretion.

Facts

On June 12, 2014, the City received a Home Occupation Permit Application filed by Mr. Antonio Carrilto and Ms. Claudia Peinado on behalf of Antonio's Tree Service regarding real property located at 900 N. 19th Ave. The real property is located on approximately one acre and currently zoned Low Density Residential. The permit seeks a home office and storage of two business-related trucks each in excess of one ton and other equipment, including a boom air lift and a chipper/shredder. Employees of the business are also expected to access the trucks and equipment from the real property.

On July 8, 2014, the City sent a letter to Mr. Carrilto and Ms. Peinado stating that the home office portion of their permit application had been approved but that, due to certain

municipal code provisions and zoning restrictions, a portion of the application relating to the storage of certain vehicles and equipment at the real property could not be approved.

On July 17, 2014, Mr. Carrilto and Ms. Peinado filed an appeal of the decision to the City Council regarding their permit application pursuant to Municipal Code section 9-2A-8.

### Background

The “Home Occupation Permit” provisions of the Municipal Code, found at 9-2B-9, and provides for a “major” or “minor” permit that shall be granted if: (1) it complies with the general plan, any applicable special plan, and applicable provisions of the title, and (2) the establishment, maintenance, or operation of the home occupation will not, under the circumstances of the particular case (location, size, design, and operating characteristics), be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the neighborhood or to the general welfare of the city.

Section 9-4D-5 of the same title contains “performance standards” that are designed to reduce the impact of the home occupation to the degree that its effects on the neighborhood are undetectable from normal and usual residential activity. The standards apply to both major and minor home occupation permit applications, and include, among other things, (1) that off-site employees are not permitted and only occupants of the home may work on site, and (2) that only one truck or van, not more than three-quarters (3/4) ton capacity, may be kept on or adjacent to the premises and no campers or semitrailers incidental to the home occupation shall be kept on the premises.

City staff denied the portion of the applicant’s home occupation permit based on the fact that it sought two trucks to be kept on the premises each in excess of three-quarters (3/4) ton capacity.

The appeal of the denial of the application is governed by 9-2A-8 of the Municipal Code, which provides for a “de novo” review of the application where the matter is reviewed in full as though it were being reviewed and decided for the first time. The matter must be scheduled at the next available hearing according to the procedure for public notice and hearing listed in section 9-2A-6.

After the public hearing, the City Council may: (1) approve, modify, or disapprove the home occupation permit application in whole or in part, based on the record and the evidence received at the hearing, (2) adopt additional conditions of approval deemed reasonable and necessary, or (3) disapprove the home occupation permit application, even if the request was to modify the project or eliminate one or more of the conditions of approval.

### Analysis and Conclusion

The home occupation permit application in question is subject to the “performance standards” set forth in 9-4D-5 of the Municipal Code, which clearly provide that: (1) off-

site employees are not permitted, and (2) only one truck or van, not more than three-quarters (3/4) ton capacity, may be kept on or adjacent to the property. Because the home occupation permit requested storage of two trucks each in excess of three-quarters (3/4) ton capacity, and employees of the business are expected to access the trucks and equipment on the premises, city staff properly denied that portion of the permit application.

On appeal, the City Council does not have authority to waive the performance standards set forth in 9-4D-5 of the Municipal Code. The City Council must review the application de novo based on the same standards set forth in the Municipal Code and may, based on the record and the evidence received at the hearing, approve, modify, or disapprove the home occupation permit application in whole or in part. The City Council, therefore, has no authority to approve the portion of the permit application that conflicts with the performance standards set forth in 9-4D-5 of the Municipal Code.

However, City staff is in the process of formulating alternatives that may allow the applicants to operate the tree trimming service as desired on the real property, which will be presented for Council review, including a possible zoning change or amendment to the Municipal Code that would permit such use.