

**Mayor**  
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**Public Works/  
Planning Department**

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## Staff Report

ITEM NO. 3-1

**To:** Lemoore City Council

**From:** Steve Brandt, City Planner

**Date:** December 3, 2014

**Meeting Date:** December 16, 2014

**Subject:** Reconsideration of Appeal by homeowner Claudia Peinado of a partial denial of a Home Occupation Application for Antonio's Tree Service - Low Density Residential - 900 N. 19<sup>th</sup> Avenue – Resolution 2014-37

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### **Discussion:**

A Home Occupation application was received June 12, 2014, from Claudia Peinado for Antonio's Tree Service. The property is located at 900 N. 19<sup>th</sup> Avenue and is zoned Low Density Residential. Planning staff partially approved the permit while denying the applicant's request to keep large vehicles on the site. The applicant appealed the partial denial to City Council.

A public hearing was held August 19, 2014, by City Council to consider the home occupation. It was determined by the City Attorney that the City Council could not overturn City Zoning Ordinance requirements that prohibit vehicles over three-quarter tons from being parked at the residence. Also, employees would not be permitted to come to the site to retrieve the trucks and other equipment. Therefore, the City Council denied the appeal without prejudice and directed 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.

The Council approved the Zoning Ordinance modifications at a public hearing held October 7, 2014. Those changes became effective November 20, 2014. Staff is now bringing back the original request for reconsideration by Council.

### **Budget Impact:**

None.

### **Recommendation:**

Staff recommends that the Council adopt the attached resolution making findings that there are special circumstances that warrant full approval of the Home Occupation Permit. The site is unlike most single-family residences in that it sits on almost one acre and has an existing large garage that could house the vehicles to be used in the

business. This means that the vehicles would not pose the type of potential nuisance that they would if they were parked on a more typical driveway in the front yard or side yard, directly adjacent to a neighboring home. Because of the special size of the site, Staff recommends that the City Council uphold the applicant's appeal and approve the home occupation subject to the following modified conditions. These conditions serve to provide alternative safeguards from nuisance for the surrounding properties.

1. Up to two vehicles over three-quarter tons may be allowed on the site. They shall be stored in an enclosed garage.
2. Other large equipment, such as; chipper/shredder and a boom airlift may be allowed on the site. They shall be stored either in an enclosed garage or at a location on the site that is not visible from the public street and is set back at least 25 feet from an adjacent residential property line.
3. Only employees who are needed to retrieve the vehicles may come to the site. Employees shall park on location that is not visible from the street and is set back at least 25 feet from an adjacent residential property line.
4. Any expansion of the business beyond the above conditions would first require approval of another Home Occupation Permit.
5. All other standard conditions for Home Occupation Permits that are not modified by the above conditions shall also apply.

The staff believes that this recommendation is appropriate due to the following special circumstances:

- The parcel is approximately one acre in size, which is much larger than a typical single-family lot, and provides locations for parking vehicles and equipment that would not be near adjacent residential properties.
- The property is located on an arterial street, where most residences are located on local streets. The arterial street will support the increased traffic from the home occupation without being a nuisance to the surrounding neighborhood.
- The site contains a large garage that can be used to store and park the two vehicles that will be used in the home occupation. Most residences do not have garages of this size that can be used to house large vehicles.

**Attachments:**

Aerial Photo of the Site

Resolution of Approval



**RESOLUTION #2014-37**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMOORE  
UPHOLDING THE APPEAL OF THE PLANNING STAFF PARTIAL DENIAL AND  
APPROVING THE REQUEST BY HOMEOWNER CLAUDIA PEINADO FOR  
A HOME OCCUPATION PERMIT FOR ANTONIO'S TREE SERVICE.  
THE SITE IS ZONED LOW DENSITY RESIDENTIAL AND  
IS LOCATED AT 900 NORTH 19<sup>TH</sup> AVENUE.**

At a Regular Meeting of the City Council of the City of Lemoore duly called and held on December 16, 2014, at 7:30 p.m. on said day, it was moved by Council member \_\_\_\_\_, seconded by Council member \_\_\_\_\_ and carried that the following Resolution be adopted:

**WHEREAS**, Antonio's Tree Service, represented by Claudia Peinado, has requested a Home Occupation Permit,

**WHEREAS**, the request asks that two vehicles over three-quarter tons be allowed on the site with employees who do not live on site coming to the site to pick them up; and

**WHEREAS**, the request also asks that other large equipment, such as a chipper/shredder and a boom airlift be allowed on the site; and

**WHEREAS**, the performance standards for Home Occupations do not allow vehicles over three-quarter tons and do not allow employees to work at the site; and

**WHEREAS**, City Planning Staff approved the Home Occupation Permit while denying the request to have large trucks and equipment on the site; and

**WHEREAS**, the applicant appealed the decision to the City Council; and

**WHEREAS**, the City Council, at a public hearing held August 14, 2014, denied the appeal without prejudice and directed Planning Staff to make modifications to the Zoning Ordinance that would allow the Council to modify the performance standards for home occupation permits when there are special circumstances; and

**WHEREAS**, the Planning Commission recommended, and the City Council approved Zoning Ordinance modifications for home occupation permits that became effective on November 20, 2014; and

**WHEREAS**, because the Council originally denied the permit without prejudice, Staff has brought back the appeal request for reconsideration; and

**WHEREAS**, a 10-day public hearing notice was sent to properties within 300 feet of the site and place in the newspaper; and

**WHEREAS**, the request is considered Categorical Exempt from the California Environmental Quality Act (CEQA).

**NOW THEREFORE, BE IT RESOLVED** that the City Council of the City of Lemoore makes the following findings:

1. There are special circumstances applicable to the property related to the site's location, size, surroundings, and other conditions so that the strict application of the required performance standards for this Home Occupation permit is not necessary to preserve the residential nature of the neighborhood;
2. The parcel is approximately one acre in size, which is much larger than a typical single-family lot, and provides locations for parking vehicles and equipment that would not be near adjacent residential properties.
3. The property is located on an arterial street, where most residences are located on local streets. The arterial street will support the increased traffic from the home occupation without being a nuisance to the surrounding neighborhood.
4. The site contains a large garage that can be used to store and park the two vehicles that will be used in the home occupation. Most residences do not have garages of this size that can be used to house large vehicles.
5. Alternative performance standards that protect and preserve the residential nature of the neighborhood have been included as conditions of approval;
6. Granting the Home Occupation will not adversely affect the interest of the public or the interest of residents and property owners in the vicinity of the premise in question; and
7. The Home Occupation Permit is consistent with the general plan, any applicable specific plan or development agreement, and the intent of this title.

**BE IT FURTHER RESOLVED** that the City Council of the City of Lemoore hereby upholds the appeal by the applicant and approves the home occupation permit for Antonio's Tree Service, subject to the following conditions:

1. Up to two vehicles over three-quarter tons may be allowed on the site. They shall be stored in an enclosed garage.
2. Other large equipment, such as; chipper/shredder and a boom airlift may be allowed on the site. They shall be stored either in an enclosed garage or at a location on the site that is not visible from the public street and is set back at least 25 feet from an adjacent residential property line.
3. Only employees who are needed to retrieve the vehicles may come to the site. Employees shall park on location that is not visible from the street and is set back at least 25 feet from an adjacent residential property line.
4. Any expansion of the business beyond the above conditions would first require approval of another Home Occupation Permit.
5. All other standard conditions for Home Occupation Permits found in Section 9-4D-5 of the Lemoore Zoning Ordinance that are not modified by the above conditions shall also apply.

**AYES:  
NOES:  
ABSTAINING:  
ABSENT:**

**ATTEST:**

**APPROVED:**

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**Mary J. Venegas, City Clerk**

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**Lois Wynne, Mayor**