

Minutes
City of Clayton Planning Commission Special Meeting
Tuesday, August 12, 2008

Call to Order

Chair Haydon called the meeting to order at 7:00 p.m. at the Library Meeting Room, Clayton Community Library, 6125 Clayton Road, Clayton.

Present: Chair Keith Haydon, Vice Chair Tuija Catalano, Commissioner Bob Armstrong, Commissioner Ed Hartley, Commissioner Sandra Johnson

Absent: None

Staff: Community Development Director David Woltering
Assistant Planner Milan Sikela, Jr.

Administrative

1A. Election of Chair and Vice Chair.

Chair Haydon moved and Commissioner Hartley seconded a motion to elect Vice Chair Catalano as Chair of the Planning Commission. The motion passed 5-0.

Commissioner Armstrong moved and Commissioner Haydon seconded a motion to elect Commissioner Hartley as Vice Chair of the Planning Commission. The motion passed 5-0.

1B. Review of agenda items.

1C. Commissioner Hartley to report at the August 19, 2008 City Council meeting.

Public Comment

Jim Schwandt, 1092 Mitchell Canyon Road, indicated the following:

- He opposes the administrative denial of a Use Permit to allow outside sales of produce at 1098 Mitchell Canyon Road.
- The outdoor sales of produce teaches kids the ethics of hard work and the value of self sufficiency.
- The daughters of the property owner sell flowers, fruits, and vegetables.
- This is not a commercial endeavor, it's merely an enhanced lemonade stand.

In response to these comments, Director Woltering indicated the following:

- It should be noted that outdoor sales of produce in a residential district is not an allowed use and that no formal application had been made.
- The merits of this matter should not be formally discussed at this meeting because it is not on the agenda. However, the Commission could direct staff to place the matter on a future agenda for discussion.
- Staff would properly notice the item if and when it become a public hearing issue.

There were no other public comments. The Commission directed staff to place the matter raised by Mr. Schwandt on a future Planning Commission agenda for discussion.

Approval of Minutes

2. Approval of minutes from the special meeting of July 29, 2008.

Commissioner Johnson moved and Vice Chair Hartley seconded a motion to approve the minutes from the special meeting of July 29, 2008, as amended. The motion passed 5-0.

Public Hearings

- 3A. **SPR 05-08, Site Plan Review Permit, Mike Roberts**, 1501 North El Camino Drive, APN 118-072-001. A Site Plan Review Permit to allow the construction of an addition to an existing single-story, single-family residence. The addition will measure approximately 14 feet in height and 500 square feet in area.

Assistant Planner Sikela presented the staff report. The public hearing was opened. The applicant indicated that he was available for questions. There being no questions, the public hearing was closed. The Commission had no comments.

Chair Catalano moved and Commissioner Johnson seconded a motion to approve Site Plan Review Permit SPR 05-08, with findings and conditions recommended by staff. The motion passed 5-0.

- 3B. **SPR 06-08, Site Plan Review Permit, Joseph Swicegood**, 1420 Lydia Lane, APN 120-051-006. A Site Plan Review Permit to allow the construction of an addition to an existing single-story, single-family residence. The addition will measure approximately 15 feet in height and 370 square feet in area.

Assistant Planner Sikela presented the staff report. The public hearing was opened.

The applicant, Joseph Swicegood, indicated that he thought it would be better if minor additions to residences could be administratively reviewed and approved to save the applicant time, money, and energy.

The Commission asked staff to address the applicant's concern. *Director Woltering indicated that City's Municipal Code has specific provisions that require Commission review and approval of this type of project. However, the applicant's comments had merit and that raising the City's thresholds to allow items like this one to be considered administratively could be considered as a possible amendment to the Zoning Ordinance.*

There being no further public comment, the public hearing was closed. The Commission had no further comments.

Commissioner Armstrong moved and Vice Chair Hartley seconded a motion to approve Site Plan Review Permit SPR 06-08, with findings and conditions recommended by staff. The motion passed 5-0.

- 3C. **UP 04-08, Use Permit, Clayton Mind and Body**, 6200 Center Street, Suite I, APN 119-620-060. A Use Permit to allow the operation of a massage therapy and skin care business in a ground-floor retail tenant space within the Town Center. The applicant is Clayton Mind and Body.

Assistant Planner Sikela presented the staff report. The public hearing was opened.

The applicant, David Godsoe, indicated the following:

- We have limited sales of retail items (massage creams, oils, etc.).
- We are proposing to move to the Village Oaks building because of the good visibility at that location and, the fact, that the business's current location will be unavailable as the property is to be redeveloped.

Steve Coates, representative of property management company Coates and Sowards, indicated the following:

- As with the Snap Fitness tenant space, he had faced challenges with leasing the subject tenant space to retail-oriented uses.
- The last business that occupied the subject tenant space was a travel agency and they did not succeed at that location.
- He had been advertising the property in the Clayton Pioneer and the Contra Costa Times.
- He had a jeweler look at the subject tenant space, but that prospective tenant was concerned about adequate visibility at that location.
- The visibility of the tenant space has been an ongoing problem.
- If Lemke Construction had been told at the time they constructed the Village Oaks building that a restriction on non-retail ground floor commercial uses would be established, they would have designed the building so that the ground floor tenant spaces are more visible, similar to the Flora Square or Rivulet buildings.

There being no further public comments, the public hearing was closed. Commission comments and questions included:

- If approved, this Use Permit will run with the land.
- Although we support Clayton Mind and Body moving to a new location within the Town Center, property owners and retail brokers should make every effort to lease ground floor commercial spaces to retail-oriented tenants.
- What is the length of the lease offered to Clayton Mind and Body? *Mr. Coates responded "five years."*
- It might be helpful to look at what percentage of retail sales it would take to classify a business as retail. *Director Woltering responded that staff would want to look at the code first but that his experience has been that, if more than 50% of the annual gross receipts are for retail sales, the business would then be classified as retail.*
- An introductory paragraph should be added to the Conditions of Approval on the Use Permit Notice of Decision which indicates that Clayton Mind and Body has been an existing business in the Town Center since 1998; the property owner has experienced challenges with leasing the tenant space to a successful retail tenant; and, that there will be no net decrease in ground-floor retail commercial space within the Town Center as a result of Clayton Mind and Body relocating from 1007 Oak Street to 6200 Center Street, Suite I. It is with those understandings that the Commission would approve the project, as conditioned.

- What if Clayton Mind and Body is so successful that the retail portion of their annual gross receipts exceeds 50% or they need to expand into an adjoining tenant space? *Director Woltering responded that the Use Permit would need to be re-visited by the Commission and possibly modified or discontinued.*

Commissioner Haydon moved and Vice Chair Hartley seconded a motion to approve Use Permit UP 04-08, with the findings and conditions recommended by staff, and with the findings added and conditions amended by the Commission. The motion passed 5-0.

Old Business

4. None

New Business

5. None

Communications

- 6A. Staff

Director Woltering discussed the status of the Rivulet project and the status of the Ruth Reed retaining wall Site Plan Review: 1) The Public Review Draft Rivulet Initial Environmental Study (IES)/Mitigated Negative Declaration (MND) document is not completed, with completion of that document dependent upon receiving final preliminary design exhibits from the applicant's design team. When that document is completed, the IES/MND will be presented to the Planning Commission for review and comments; 2) The Site Plan Review for the Ruth Reed retaining wall is expected to be presented to the Planning Commission at its September 9, 2008 meeting.

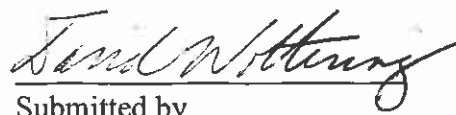
- 6B. Commission

The Commission indicated the following:

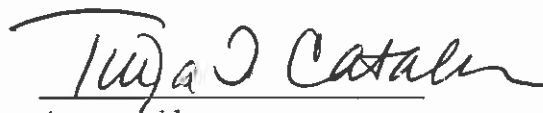
- We would like to see two items brought to the August 26, 2008 meeting: a study session regarding administrative review and approval for site plan review permit projects that involve construction over 500 square feet in area and/or 12 feet in height; and a study session to possibly allow limited outside commercial activities in residential areas.
- We would like to receive all future site plans on 11x17 unless full-size plans are needed for legibility purposes.
- We would like to receive photographs of properties related to projects we are reviewing.

Adjournment

7. The meeting was adjourned at 9:15 p.m.



Submitted by
David Woltering, AICP
Community Development Director



Approved by
Tuija Catalano
Chair