

Minutes
City of Clayton Planning Commission Special Meeting
Tuesday, September 9, 2008

Call to Order

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

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

Absent: Vice Chair Ed Hartley

Staff: Community Development Director David Woltering
Planning Intern Kristin Burger

1A. Selection of back-up Chair.

Commissioner Armstrong moved and Chair Catalano seconded a motion to approve Option 1, based on most seniority on the Commission; consequently, Commissioner Haydon was proposed as back-up Chair. The motion passed 4-0.

1B. Review of agenda items.

1C. Commissioner Haydon to report at the September 16, 2008 City Council meeting.

Public Comment

Approval of Minutes

2. Approval of minutes from the meeting of August 26, 2008.

Chair Catalano moved and Commissioner Haydon seconded a motion to approve the minutes from the meeting of August 26, 2008, as amended. The motion passed 5-0.

Public Hearings

3. **SPR 11-07, Site Plan Review Permit, Ruth Reed, 1816 Ohlone Heights, APN 118-392-001.** A request for a Site Plan Review Permit for an existing retaining wall, screen fence atop the retaining wall, and landscape and related improvements in the exterior side yard of the subject property.

Director Woltering presented the staff report.

Commission comments and questions included:

- Is a building permit needed for the retaining wall? *Director Woltering responded that, yes, a building permit is needed for the retaining wall.*
- Were any comments received after the public hearing notice was posted and mailed out? *Director Woltering responded that a phone call and letter had been received from Mr. Hellman, a neighbor to the applicant.*
- Did you discuss the conditions of approval with the applicant? *Director Woltering responded that he had discussed the conditions of approval with the applicant and that she had accepted the conditions.*

- What is the current maximum height of the retaining wall? *Director Woltering responded that the retaining wall does not exceed seven feet in height and varies from approximately two to less than seven feet in height. The applicant will need to obtain an Administrative Use Permit to allow portions of the wall to exceed six feet in height.*
- Commissioner Haydon commented that the maximum allowable height for the retaining wall, as explained by Director Woltering, should be reflected more clearly in the conditions of approval.
- How long will the requirement for upkeep on the landscaping and maintenance be in effect? *Director Woltering responded that it would be an ongoing requirement that would run in perpetuity.*
- What happens to the landscaping and maintenance requirements when title of the property is transferred? *Director Woltering replied that the landscaping and maintenance agreement runs with the land and, therefore, the new property owner would be required to abide by it.*

Director Woltering noted the following:

- Portions of the wall will need to be removed for the soils and structural inspections involved with the building permit process.
- A landscaping and maintenance agreement will be recorded with the property and run with the land.

The public hearing was opened.

Peter Hellman, 156 Joscolo View, indicated the following:

- I am thrilled with the progress that has been made and I have no complaints.
- I hope that the City of Clayton would recover its costs and fines related to this matter. However, I suggest that, once the applicant has complied with the conditions of approval, the City waive most, if not all, of the fines that are in excess of costs.

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

- The plans submitted to resolve this matter are resonable. We need to clarify under Condition 1 that retaining wall is not to exceed the current maximum height. We also need to indicate what the building permit is for.
- Condition 6 should be deleted and replaced with Advisory Note 4.
- The recordation requirement under Condition 4 should be clarified.
- How do the fines and penalties relate to the project? *Director Woltering responded that the fees and penalties are the City's leverage to assure that the issues associated with the retaining wall are corrected. Once the issues have been corrected, the property owner could request from the City Council an adjustment of the fines and penalties.*

Director Woltering summarized back to the Commission its direction on amendments to the proposed conditions of approval:

- Amend Condition 1 and Condition 4 to make them more clear, regarding not further increasing the building height and recordation, respectively.
- Amend the language in Condition 3 to reference the retaining wall.
- Replace Condition 6 with wording from Advisory Note 4.

Chair Catalano moved and Commissioner Haydon seconded a motion to approve Site Plan Review SPR 11-07, with the findings and conditions recommended by staff, and with conditions as amended by the Commission. The motion passed 4-0.

Old Business

4. None

New Business

5. **CDD 10-08, City of Clayton.** Study session item regarding possible amendments of Chapter 17.44 of the Municipal Code to increase the thresholds for administrative review of minor additions to residences.

Director Woltering presented the staff report.

Commission comments and questions included:

- How would the noticing process work for administrative site plan reviews? *Director Woltering responded that administrative site plan reviews could be handled in the same manner as Tree Removal Permits by noticing the homes that immediately surround the subject property rather than the homes within 300 feet of the subject property. The noticed property owners have ten days to respond. If any noticed property owners respond, depending on the nature of the response, the project could be brought before the Commission. In the notice, staff would explain that it intends to approve that project with conditions, and the conditions would be listed in the notice.*
- What happens if the applicant applies for a variance? *Director Woltering indicated that a standard Variance would go to the Planning Commission, with the more standard 300 foot noticing.*
- It would be helpful to add to the prerequisites for administrative review that the additions must be located on the interior side or rear elevation of the existing residence.
- A prerequisite could be that the addition should match the existing roof line or roof pitch to possibly eliminate the height threshold of 16 feet.
- Currently, only one-story additions are being proposed. Should we not consider two-story additions, if the existing home is already two stories? *Director Woltering clarified that, as of now, two-story additions must go to the Commission and, typically, are of greater concern to surrounding residents.*
- The City's Municipal Code currently gives authority for administrative review and approval of second dwelling units up to 750 square feet in area and 16 feet (confirmed to be 15 feet) in height. (Accessory structures are allowed up to 16 feet in height).
- A single-story addition may be a concern, if the applicant is raising the level of the lot. The Planning Commission should review these projects. *Director Woltering responded that the existing site plan review permit process addresses changes in topography. It indicates that if there is a grade change over 10 feet in height, the project is subject to a site plan review before the Commission.*
- One of the prerequisites for allowing administrative review and approval of larger site plan review projects is that the addition entails an extension of the existing roof line.
- The Commissioners indicated consensus on the following issues related to increasing thresholds for administrative review:
 - Option C looks the best as a base. Option C allows administrative review up to, and including, 16 feet in height and 750 square feet in area.
 - A 16-foot height may be okay since it is consistent with the second dwelling unit standards.
 - Continuing the existing roof line, even if it is higher than 16 feet, may be okay.
 - All single-story additions up to 750 square feet in area should be reviewed and approved administratively.

- A prerequisite should be that the addition is located on an interior side or rear elevation.
- Any project involving a change in topography over a certain threshold should be reviewed by the Commission.
- Any project involving a two-story addition should be reviewed by the Commission.
- Notices should be sent to all property owners that are in the immediate vicinity of the addition (i.e., those whose properties abut the subject property as well as those whose properties are directly across the street, similar to the noticing process for Tree Removal Permits.).
- Is a motion needed regarding the direction being provided? *Director Woltering indicated that a motion would not be needed and that he would take the Commissioners integrate them into a draft ordinance and then have the City Attorney review them. He also noted that the draft ordinance would be brought back before the Commission in approximately 60 days.*
- Are two City Council readings needed before the ordinance takes effect? *Director Woltering confirmed that, when amending the code, two readings would be required at the City Council, followed by a 30-day period before the ordinance would officially become effective.*

Communications

6A. Staff: Update regarding August 26, 2008 Planning Commission meeting study session related to "possible amendment of the Clayton Municipal Code to allow outside sales in residential areas."

Director Woltering indicated the following:

- The City Attorney's memorandum to the Commission regarding this issue indicated that, under the current code, outside sales in residential areas are not allowed.
- The letters sent out to the property owners of 1098 Mitchell Canyon are appropriate and should not be withdrawn.
- The City Attorney and myself are preparing a draft ordinance for allowing outside sales in residential areas. We will bring a draft ordinance back for Commission review within 60 days.
- As we discussed at the August 26, 2008 Commission meeting, there are at least three viable options that the property owner could currently utilize to sell vegetables: the farmers' market, subscription farming, and the home occupation permit process.

Commission comments and questions included:

- Have you visited 1098 Mitchell Canyon Road? *Director Woltering replied that he had met with the property owners at the site and observed the following:*
 - *There is a tractor in the front yard which is a code violation. It must be behind a six-foot solid fence. Currently, vegetables are planted behind the fence where the tractor could be properly stored.*
 - *There is a car under a tarp in the front yard which is a code violation. The car will be picked up in two weeks and moved off-site for restoration.*
 - *There is a large pile of manure and other miscellaneous material in the front of the property which will need to be removed or properly screened.*
 - *The City will follow-up with the property owners of 1098 Mitchell Canyon Road to ensure that these code violations have been addressed.*

6B. Commission

Chair Catalano asked about the Rivulet project. *Director Woltering indicated that the City is waiting for submittal of a tentative map as well as soils and geotechnical information. It is his understanding that the applicant wants to create a mixed-use project with condominium residential units on the second floor.*

Commissioner Armstrong indicated that it was his understanding that the developer was going to build the units to condominium standards and then rent them until market conditions were more favorable to sell the units. *Director Woltering concurred that that was the developer's intention, but that staff is still waiting for submittal of a tentative map.*

Chair Catalano asked when the applicant was planning on submitting a tentative map. *Director Woltering replied that the applicant has not provided a specific date for submittal.*

Chair Catalano asked did the award given by the City Council have a time frame attached? *Director Woltering replied that he was not working for the City of Clayton at that time. In terms of what the applicant is trying to achieve and what the City is expecting, the time frame is not unusual. At this point, we need a final project description so that we can we finalize the environmental document to support the description.*

Commissioner Haydon noted that the Commission previously held special sessions to try and fast track the project, but the project has slowed down in the development pipeline. *Director Woltering noted that the work the Commission did on the project was extremely beneficial in terms of basic design issues. The major issue for the applicant, at this point, is whether or not they should design the project to condominium standards or apartment standards.*

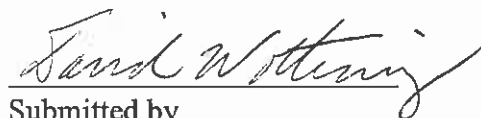
Chair Catalano asked if Diablo Pointe is going to need another tentative map extension. *Director Woltering replied that a recent provision of State law has provided an automatic one-year extension for subdivision maps. The Diablo Pointe and Oak Creek Canyon subdivisions both received that extension. A couple of different parties have shown interest in purchasing the Diablo Pointe site and continuing the development of the subdivision.*

Commissioner Armstrong asked if there were any way for the City of Clayton to contract with the City of Concord instead of Contra Costa County for permitting services. This would reduce the amount of travel time for applicants who are attempting to obtain a building permit. *Director Woltering indicated that he would discuss the issue with the City Manager.*

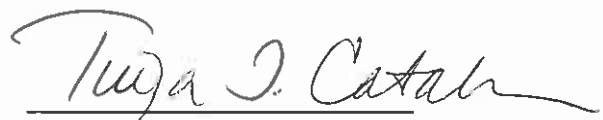
Regarding a wedding that was held on the Stice property, Commissioner Armstrong asked if a permit has been issued for the wedding and if the property was being proposed for rental as a wedding location. *Director Woltering indicated that he would research the matter and report back.*

Adjournment

7. The meeting was adjourned at 8:40 p.m.



Submitted by
David Woltering, AICP
Community Development Director



Approved by
Tuija Catalano
Chair

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