

Minutes
City of Clayton Planning Commission Meeting
Tuesday, August 25, 2009

Call to Order

Chair Catalano called the meeting to order at 7:00 p.m. at Hoyer Hall, 6125 Clayton Road, Clayton.

Present: Chair Tuija Catalano, Commissioner Bob Armstrong, Commissioner Sandra Johnson, Commissioner Ted Meriam, Commissioner Dan Richardson

Absent: None

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

Administrative

1A. Selection of Chair and Vice Chair.

Chair Catalano moved and Commissioner Johnson seconded a motion to elect Commissioner Armstrong as Chair. The motion passed 5-0.

Commissioner Catalano moved and Chair Armstrong seconded a motion to elect Commissioner Johnson as Vice Chair. The motion passed 5-0.

1B. Review of agenda items.

By consensus, the Commission placed Item 3B before Item 3A.

1C. Commissioner Catalano to report at the City Council meeting on September 1, 2009.

Approval of Minutes

2. Approval of minutes from the meeting of July 14, 2009.

Commissioner Richardson moved and Commissioner Catalano seconded a motion to approve the minutes from the meeting of July 14, 2009, as amended. The motion passed 5-0.

3B. **SPR 11-07, Extension of Site Plan Review Permit, Ramon Velasquez, 1816 Ohlone Heights, APN 118-392-001.** A request for a twelve-month extension for a previously-approved Site Plan Review Permit (previously approved on September 17, 2008) 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.

Planning Commission comments and questions included:

- Was the Planning Commission Notice of Decision recorded with Contra Costa County in October 2008? Director Woltering responded "Yes."
- Would the Planning Commission Notice of Decision have been disclosed as part of the home sale? Director Woltering responded "Yes."

- Would the applicant have needed to obtain a building permit within a year from the original approval date of September 9, 2008? Director Woltering responded "Yes."
- Did the prior property owner complete any of the Conditions of Approval? Director Woltering responded "No."
- Is twelve months the maximum amount of extension time the Planning Commission can approve? Director Woltering responded "Yes."
- Will the retaining wall and fence require significant changes? Director Woltering responded that both the retaining wall and fence would need to be modified to comply with the Conditions of Approval. The fence needs to be changed to be five feet in height, moved three feet away from the back of the retaining wall, and a wrought iron design style. The retaining wall must be screened by landscaping and be properly permitted by the Contra Costa County Building Inspection Department.
- What will happen to the fines and penalties accrued by the prior property owner? Director Woltering indicated that the previously-estimated \$305,000 amount of fines and penalties accumulated by the previous property owner would not carry over to the new owner.
- Would staff support approving a modification to this Site Plan Review Permit? Director Woltering indicated that, at this time, the Commission would only be considering an extension of the original Site Plan Review Permit. However, the project may need to come back to the Commission if further modifications are proposed.
- If the current property owner did not comply within a reasonable amount of time, could fines and penalties begin to accumulate again? Director Woltering responded "Yes."
- If the proposed changes to the project are significant, would the current property owner need to come back before the Commission? Director Woltering responded that, if the changes are significant, the current property owner would have to apply for a new Site Plan Review Permit for consideration by the Commission.

The public testimony period was opened.

The applicant, Ramon Velasquez, submitted a letter from his neighbors, Peter and Debbie Hellmann, in favor of the project and indicated the following:

- When we first bought the residence, we were aware of issues with the retaining wall, but did not know the full extent of the problems.
- We knew the Notice of Decision was recorded against the property, but we did not read all of the detail.
- The main priority for us is public safety.
- We have hired a structural engineer to satisfy all Clayton Municipal Code requirements and Oakhurst Conditions, Covenants, and Restrictions.
- We received a letter in support of the appearance of the project in its current form.

Commission comments and questions included:

- We have sympathy for the current property owner and the problems inherited by purchasing the subject property.
- Did your realtor disclose the Notice of Decision to you or discuss any of the parameters of the non-compliance issues? Mr. Velasquez responded that, yes, the realtor mentioned that we would inherit the issues and problems related to the project.
- Why are you requesting a twelve month extension? Mr. Velasquez indicated that it would take approximately one year to complete the required modifications to the project.

Dan Foley, 131 Joscolo View, indicated the following:

- We have been living at 131 Joscolo View for two years.
- The retaining wall and fence are not an eyesore.
- We have no problems with the project being left the way it currently is.
- Many of our neighbors have discussed the issue and they have no problem with the project being left the way it currently is.
- If safety issues are present, they must be addressed.

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

- I sympathize with the applicant, but the wall is not currently permitted.
- I am concerned that, if the wall fails, the swimming pool will collapse because the installation of the retaining wall has changed the condition of the slope below the pool.
- Time is of the essence.
- The Commission concurred that a six-month extension is appropriate.
- Is the wall structurally sound? Director Woltering indicated that staff did not know.
- A twelve-month extension may push construction past the winter of 2010/2011 and it may be Spring of 2011 before construction commences on the project. That would be too long to wait for construction to start.

Commissioner Catalano moved and Vice Chair Johnson seconded a motion to approve a six-month extension for Site Plan Review SPR 11-07. The motion passed 5-0.

3A. ZOA 02-09, Municipal Code Amendment, City of Clayton. A public hearing regarding amendments to Clayton Municipal Code Section 17.36.020 (Building Height Restrictions) to consider removing specified outdated building height references and to clarify the purpose of this Section. *Continued from the Planning Commission meeting of August 11, 2009.*

Assistant Planner Sikela presented the staff report.

Commission comments and questions included:

- Are the supporting amendments described in the staff report included in the proposed ordinance amendment? Assistant Planner Sikela indicated that, yes, these amendments were added to the draft ordinance.
- Why was the threshold of 40,000 square feet added for windmills and wind chargers located on non-agriculturally designated properties? Staff and Commissioner Richardson clarified that it was determined that there may be opportunities for these structures and uses to be beneficially utilized in other districts, but that a certain minimum property size should be determined to address compatibility issues related to visual impacts and noise.
- The term "structures and buildings" needs to be added to paragraph two of Section 1 of the draft ordinance.

Commissioner Richardson moved and Commissioner Catalano seconded a motion to approve Resolution No. 03-09, thereby, recommending City Council approval of the draft ordinance amendment pertaining to Section 17.36.020 (Building Height Restrictions). The motion passed 5-0.

Old Business

4. None.

New Business

5. None.

Communications

6A. Staff – Distribution of information for Complete Streets.

Director Woltering described to the Commission the distributed information for Complete Streets.

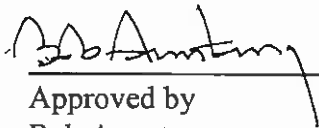
6B. Commission.

Chair Armstrong indicated that he appreciated Commissioner Catalano's service as Chair of the Planning Commission.

Adjournment

7. The meeting was adjourned at 8:23 p.m.


Submitted by
David Woltering, AICP
Community Development Director


Approved by
Bob Armstrong
Chair

Plng Comm\2009\Minutes\0825