

Minutes
Clayton Planning Commission Meeting
Tuesday, June 14, 2011

Call to Order

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

Present: Chair Sandra Johnson, Vice Chair Dan Richardson, Commissioner Tuija Catalano, Commissioner Ted Meriam
Absent: Commissioner Bob Armstrong
Staff: Community Development Director David Woltering
Assistant Planner Milan Sikela, Jr.

Administrative

- 1A. Review of agenda items.
- 1B. Chair Johnson to report at the City Council meeting on June 21, 2011.

Public Comment

None.

Approval of Minutes

- 2. None.

Public Hearing

- 3. A public hearing pertaining to the proposed Diablo Estates at Clayton residential subdivision involving the construction of 24 single-family residences on the 24-acre former Diablo Pointe property. The applicant is Toll Brothers Home Builders. The project site is located at the northeast corner of Regency Drive and Rialto Drive (APNs 119-630-001, -002, -003, -004, -005, -006, -007, -008, -009, -010, -011, 119-640-001, -002, -003, -004, -005, -006, -007, -008, -009, -010, -011, -012, -013, -014). The entitlements that will be considered for approval are listed below:
 - **SPR 01-11, Site Plan Review.** A site plan review permit to allow the construction of 24 single-family residences measuring approximately 3,500 to 4,900 square feet in area (includes garage space).
 - **LLA 01-11, Lot Line Adjustment.** A lot line adjustment to adjust the lot lines on Lots 1, 2, 20, and 21.
 - **VAR 01-11, Variance.** A variance to allow the front and side setbacks on Lots 1, 2, 3, 4, 16 to be less than the required minimum setbacks in the respective Single Family Residential Districts and also to allow only the porches on all residences to project five feet into the front and side setbacks.
 - **UP 01-11, Use Permit.** A use permit to allow a temporary sales trailer and related parking lot to be installed on Lot 18.

Director Woltering presented the staff report and highlighted the following items:

- The Site Plan Review Permit, Lot Line Adjustment, and Variance are being introduced to the Planning Commission tonight; however, staff is requesting that a Commission decision be rendered at tonight's meeting on the Use Permit request.
- The project site was the former location of the Diablo Pointe residential subdivision project, for which a final map of the 24-lot residential subdivision was approved with private streets and utility easements included. The subdivision also included a Lot 25 for dedication to the State Parks Department.
- Toll Brothers purchased the site after Lemke Construction (original developer of the previously-approved Diablo Pointe project) lost the property to foreclosure.
- Toll Brothers is proposing new residential designs, a minor shift in the location of certain lot lines, variances for smaller setbacks to create larger useable rear yard areas and to minimize impacts to existing slopes potentially caused by grading, and a Use Permit for a temporary sales trailer and associated parking lot.
- A concern of staff regarding this proposal is that the developer is wanting to enable some development for future homeowners within the steeply sloped areas beyond the proposed open view fencing at the back of the rear yard areas on individual lots.
- Staff is proposing a condition of approval that will require the applicant to submit an application to rezone Lots 1, 2, and 3 from R-40-H to R-40 to do away with the equestrian uses that could potentially increase slope degradation on those lots.

Commission comments and questions included:

- Variances are needed to minimize impacts to sloped areas? Director Woltering indicated that, the closer the residences are to the street, the further they will be away from the tops of slopes and toes of slopes on the respective lots. Approval of the variance request will allow certain residences to be located closer to the street, thereby orienting the residences further away from the sloped areas, and, as a result, minimizing impacts to the slopes.
- What will be the maintenance mechanism for the landscaped areas outside of the open view fence? Director Woltering indicated that a benefit assessment district could be established to address maintenance needs for the landscaped areas.
- Why is corrective grading occurring at the project site? Director Woltering indicated that the previous developer, Lemke Construction, performed grading to a certain point, but did not complete the grading, so Toll Brothers will have to complete the unfinished grading to obtain the necessary certification that the grading was satisfactorily completed.
- Were there environmental impacts that needed mitigation? Director Woltering indicated that there are mitigation measures in the environmental document pertaining to drainage, habitat protection, etc.

Rick Nelson, Division President, Toll Brothers, indicated the following:

- Toll Brothers purchased the property from the bank that foreclosed on Lemke Construction.
- Since the prior grading was not completed, Toll Brothers developed a remedial grading plan and are doing corrective work on the project site to gain proper certification.
- Toll Brothers intent is that the Diablo Estates project conforms to the prior approvals related to the Diablo Pointe project.
- We are proposing smaller residences. Our largest residence is 4,200 square feet (i.e., habitable space) in area.
- We were concerned there was not enough rear yard space on the lots approved as part of the Diablo Pointe Site Plan Review Permit, so we designed Diablo Estates residences to be smaller than the residences approved as part of the Diablo Pointe project. Additionally, we are requesting variances to move specified residences to the street.

- The reason we pre-plotted residences on only a portion of the Diablo Estates site is to retain flexibility and provide some level of choice in the location of different residential designs on different lots for prospective homebuyers.
- We are proposing to install open view fencing at the terminus of the formal, individual rear yard areas and, for privacy purposes, solid fences between the residences.

Dick Hunt, Principal, Hunt Hale Architects, the project architect for Toll Brothers, indicated the following:

- We tried to provide more animation of the streetscape by utilizing six different residential plan types with two or three color schemes and front elevation options per plan type.
- The residences have been designed to “address” the street.
- To soften the visual impact of the two-story residences, we mixed single-story elements with two-story elements.
- Courtyards were included in the design of many of the residences to create interior, useable, sheltered open space.
- We are offering different floor plans to provide more livability for different lifestyles.
- We designed smaller residences than what was approved for the Diablo Pointe project.
- In order to minimize the visual impact to off-site areas, the residences are proposed to be sited further away from the top of slope as viewed from Rialto Drive, Regency Drive, and Petar Court.

Commissioner Meriam inquired about the temporary sales trailer. Mr. Hunt indicated that the ramps shown on the trailer in the photograph will not be used for the trailer at the Diablo Estates site. Instead the trailer will be placed below grade to enable direct access into the unit.

Commissioner Catalano inquired about the distribution of one- and two-story residence on lots 16 through 24. Mr. Hunt indicated that, in order to comply with the requirement that single-story residence designs be predominantly used on those lots, we will utilize single-story residences and two-story residences with single-story elements on a majority of these lots.

Vice Chair Richardson inquired how the strategy of using mixed residential frontages and various plan types will work with the flexible plotting of residences. Mr. Hunt indicated that the Diablo Estates project is being proposed with that the proposed condition of approval to limit how often options are used within the subdivision should assure the variety and interest that the Planning Commission would hope for.

Vice Chair Richardson inquired about the impetus for the variance requests. Mr. Hunt indicated that we are asking for the variances to allow the residences to be placed closer to the street and pulling the residences further away from the slopes in the rear yard areas of certain lots, thereby providing minimization of visual impact, maximization of yard space, and reduction of grading impacts.

Commissioner Catalano inquired about the landscape fencing beyond the yard areas adjacent to the residences. Mr. Hunt indicated that no fencing will be located on the downslope or upslope rear yard areas beyond the proposed lateral open view fencing, other than the perimeter fencing at the rear property lines of the lots.

Commissioner Catalano inquired if there was a construction schedule. Mr. Hunt indicated that Toll Brothers was anticipating construction of the model home within six months and hoping to build-out the entire subdivision within approximately two years.

Vice Chair Richardson inquired who would be responsible for maintaining the fire clearance on each lot. Mr. Hunt indicated that, through use of a benefit assessment district, the property owners of the lots would be responsible.

Commissioner Meriam inquired about the dedication of Lot 25. Mr. Hunt indicated that it is still anticipated Lot 25 would be dedicated to State Parks.

The public hearing was opened.

Marianna Behdjet, 32 Petar Court, indicated the following:

- Concerned about assuring weed abatement on the site.
- A benefit assessment district should be established to help ensure the property owners address weed abatement.
- Single-story residences should be located on the lots above Petar Court so that the existing residential properties on Petar Court will not be visually impacted by a wall of two-story structures.

Ann Upton, 38 Petar Court, indicated the following:

- The benefit assessment district should include maintenance of the drainage v-ditches.
- Hopefully, the grading being done on the site should prevent drainage problems. I have had flooding on my property caused by runoff from the project site.
- The open view fencing at the top of the slopes above Petar Court should run along the top of the slope, rather than being located beneath the top of slope. Mr. Hunt indicated that open view fencing matches the topography of the slope in order to have a more consistent trajectory.

Tom Fannin, 61 Regency Drive, inquired what the fence design would be for the fence running along Regency Drive. Mr. Hunt indicated that there will be open-view fencing located on Regency Drive.

Ron Cerruti, 20 Rialto Drive, indicated concerns about proper weed abatement on the almost three-acre Lot 4, which is located behind his property on Rialto Drive. He inquired if a "French drain" system had been installed at the edge of the subject property above Rialto Drive. Mr. Nelson indicated that he would research the matter.

The public hearing was closed.

Chair Johnson inquired how the property owners would be penalized if they do not perform proper weed abatement. Director Woltering indicated that a lien could be levied against the property owner in violation of the benefit assessment district terms.

Vice Chair Richardson confirmed, per staff's recommendation, that the Use Permit is the only entitlement that the Planning Commission anticipates making a motion on tonight and that the other entitlements will be continued to the next meeting. He added that it would be helpful to have more information on the location of the open-view fencing and easements on sloped areas of the rear portions of lots.

Commissioner Catalano indicated the following:

- We need to be sure that Lot 25 is still deeded over to Mount Diablo State Park and that BMI units are provided in the event that only 19 residences (or less) are constructed.

- We need to ensure that architectural variation is included in the designs of the residences.
- It would be good to have a copy of the environmental mitigation measures and associated conditions of approval.

Commissioner Meriam indicated the following:

- We want to ensure that we include single-story residences on Lots 16 through 24. Director Woltering indicated that the mitigation measures require that the residences on Lots 16 through 24 be predominantly single-story.

Chair Johnson indicated the following:

- We want to make sure that the property owners do not replace open-view fencing with a solid wood fence.
- Construction of structures by the property owners on downslope or upslope areas of the lot should be prohibited.

Director Woltering indicated that staff would research the scenic easement on the subject property.

Commissioner Catalano moved and Vice Chair Richardson seconded a motion to approve Use Permit UP 01-11, with the Conditions of Approval as recommended by staff; and to continue Site Plan Review Permit SPR 01-11, Lot Line Adjustment LLA 01-11, and Variance VAR 01-11 to the next meeting of the Planning Commission on June 28, 2011. The motion passed 5-0.

Old Business

4. None.

New Business

5. None.

Communications

6A. Staff

Director Woltering provided a status report on the update of the Housing Element implementation program.

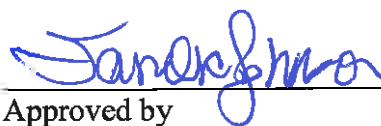
6B. Commission – None.

Adjournment

7. The meeting was adjourned at 9:30 p.m. to the following regularly-scheduled meeting of **June 28, 2011.**



Submitted by
David Woltering, AICP
Community Development Director



Approved by
Sandra Johnson
Chair