

Minutes
Clayton Planning Commission Meeting
Tuesday, October 25, 2011

Call to Order

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

Present: Chair Dan Richardson, Vice Chair Keith Haydon, Commissioner Bob Armstrong, Commissioner Sandra Johnson, and Commissioner Gregg Manning

Absent: None

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

Administrative

1A. Review of agenda items.

1B. Commissioner Manning to report at the City Council meeting on November 1, 2011.

Public Comment

Glenn Miller, 1005 Pebble Beach Drive, indicated he had concerns that the parking lot at the southeast corner of Main Street and Oak Street did not comply with Americans With Disabilities (ADA) requirements and other pertinent regulations such as stormwater, trash, etc. *Community Development Director David Woltering offered that this matter should have been directed to staff in an administrative forum at City Hall using the City's standard code enforcement process. Director Woltering added that staff would research the matter and contact the Planning Commission and Mr. Miller with the results of the research.*

Approval of Minutes

2. Approval of minutes from the meeting of September 13, 2011.

Commissioner Manning moved and Vice Chair Haydon seconded a motion to approve the minutes, as amended. The motion passed 5-0.

Public Hearing

3. **ENV 01-08, DP 01-08, MAP 02-09, Creekside Terrace Mixed Use Project, City of Clayton**, 1005 Oak Street, 1007 Oak Street, and a third non-addressed parcel west of and upslope from Mitchell Creek (APNs 119-050-009, 119-050-034, and 119-050-008). A review to consider a one-year extension on the Creekside Terrace Development Plan and Vesting Tentative Subdivision Map which were previously approved on July 6, 2010. This request is in accordance with Section 16.06.030 and Section 17.28.190 of the Clayton Municipal Code. The project site is located in the Town Center of Clayton, on the west side of Oak Street between High Street and Center Street. The project involves the redevelopment of two properties, which are currently developed, generally level, and serviced by utilities. The third parcel, located immediately to the west, is an upsloping undeveloped property with Mitchell Creek traversing the eastern edge of that parcel near the toe of slope. The project would result in the construction of a two-story mixed-use building, incorporating a western-style architectural theme suggested for this area in the Clayton Town Center Specific Plan. The first floor is comprised of approximately 7,200 square feet of retail commercial space to be divided into approximately four to five for-

sale commercial condominium units. The second floor includes seven for-sale residential condominium units. The residential units are one-bedroom and several of the units contain dens. A terrace is proposed on the creek (west) side of the second story. The project includes the previously adopted entitlements:

- Initial Environmental Study/Mitigated Negative Declaration (ENV 01-08);
- A Development Plan (DP 01-08); and
- A Vesting Tentative Subdivision Map (MAP 02-09).

Director Woltering presented the staff report; distributed a letter from Glenn Miller, 1005 Pebble Beach Drive; and indicated the following regarding the Creekside Terrace mixed use project:

- The project was approved the City Council resolution on July 6, 2010.
- Per the Clayton Municipal Code, Development Plan approvals are valid for 18 months and can be extended incrementally for a maximum of one year by Planning Commission or City Council approval.
- The project's Vesting Tentative Map had been extended by State mandate and, as a result, is automatically extended until July 6, 2014.
- The Mitigation Measures and Conditions of Approval that were adopted as part of the City Council's approving resolution are still valid and would be carried forward for the life of the entitlements.

Director Woltering addressed Mr. Miller's letter with the following key points:

- When the City identifies a new developer for this project, a new development agreement would be established.
- Project entitlements are in accordance with applicable City, regional, and State laws.
- Parking adequacy (including in-lieu fees and related parking issues) is addressed by Condition 19 and was thoroughly discussed in the project's Initial Environmental Study/Negative Declaration (IES/MND).
- The Town Center parking waiver period was extended until June 2013 per adoption of Ordinance No. 428.
- The Level of Service (LOS) for Clayton intersections is at A or B, which is an excellent rating. The LOS rating takes into consideration the safety conditions at a given intersection.
- All project-related documentation will be available as part of the City's due diligence.
- Hydrology, stormwater, and related issues are addressed in the Conditions of Approval.

Commissioner Armstrong inquired if the application falls within the extended parking period. *Director Woltering answered "Yes."*

Vice Chair Haydon indicated that the new extension date from January 6, 2012 to January 6, 2013 should be including in the wording within the Planning Commission resolution.

Commissioner Manning inquired about the status of the Department of Fish and Game (DFG) mandating an increase in setback from top of creek bank that was instituted statewide and added that he recalled the City was trying to approve project-related entitlements prior to the DFG deadline in order to enable the project site to still be developed, since the new DFG creek bank setback would have rendered the project site unbuildable. *Director Woltering indicated that the project entitlements were approved prior to the DFG deadline and that DFG had reviewed the project and found it acceptable, as documented in the project file.*

Commissioner Manning inquired about the status of the prospective developer that the City had been working with to develop the project. *Director Woltering indicated the prospective developer encountered financial problems which prevented him from moving forward with the project. The City took over and completed the entitlement (i.e., approval) process. The City is now looking for a new developer to complete the project.*

The public hearing was opened.

Glenn Miller, 1005 Pebble Beach Drive, indicated the following:

- My concern was that development-oriented rules changing over time be adequately addressed and disclosed so that the project complies with current regulations.
- Being a Clayton resident that picks up and drops off my child in the area of the Center Street and Oak Street to attend Mount Diablo Elementary School, I just wanted to ensure that safety precautions are taken and current standards are adhered to as the project is developed in the future.
- My understanding is that improvements in infrastructure, with regard to the installation of stoplights in that area, would be funded by the City. *In response, Director Woltering indicated that the traffic study in the project's IES/MND analyzed the intersection and found that no adverse conditions existed at that location. In addition, the analysis mentioned that the City would work with the developer and applicable traffic-related agencies, as needed, to ensure project compliance with current safety standards, but did not specifically require the installation of traffic signals or that the City would fund any such infrastructure.*

Commissioner Manning indicated that, although some minor improvements are anticipated at the subject intersection as the project is developed in the future, he does not foresee the installation of traffic signals at the subject intersection, based on approved project documents and applicable regulatory provisions. *Director Woltering concurred and added that the project's Conditions of Approval do not require the installation of traffic signals.*

Commissioner Johnson indicated that the project was thoroughly reviewed and subsequently approved by the City, in compliance with applicable laws and regulations.

Commissioner Armstrong indicated that he supported granting the extension.

Vice Chair Haydon indicated that the underlying project issues have been adequately addressed and that he is in support of the extension.

Commissioner Manning indicated that tonight's discussion does not involve modifying the project in any way, nor does it entail changing project compliance with applicable laws and regulations, but, rather, is merely an extension.

Chair Richardson indicated he concurred with comments expressed by other members of the Planning Commission and was in support of the extension.

Commissioner Armstrong moved and Commissioner Manning seconded the motion to approve Planning Commission Resolution No. 05-11, as amended with the addition of extension dates to be listed in the wording of the Resolution. The motion passed 5-0.

Old Business

4. None.

New Business

5. Discussion regarding amending Chapter 6.05 and Sections 17.16.130, 17.36.070, and 17.60.030 et al. of the Clayton Municipal Code to allow for the keeping of fowl on residential lots that are not located in an Agricultural District.

Director Woltering presented the staff report and indicated the following:

- The keeping of the chickens at a residential property was brought to staff's attention by a complaint that was filed with the City's Code Enforcement Officer.
- The Clayton Municipal Code currently prohibits the keeping of chickens on residential properties located outside of the City's Agricultural District.
- During communications with staff and in the letter submitted to the City, the subject property owners who were keeping the chickens have indicated that the chickens provide "pet therapy" for their son who has Tourette Syndrome.
- To clarify, tonight's discussion should be focused on whether or not the Planning Commission will direct staff to move forward on researching the issue, analyzing comparable jurisdictions' regulations, and providing various options for Planning Commission consideration, including amending the Clayton Municipal Code to address this matter.

Commissioner Manning indicated that one of his concerns with the keeping of chickens is the noise generated by such an activity.

Vice Chair Haydon indicated that he was in support of directing staff to conduct further research on the issue.

Commissioner Johnson indicated that she has concerns over the keeping of chickens on smaller-sized residential lots and that odors could impact neighboring properties.

Chair Richardson indicated he was also in support of directing staff to conduct further research.

Commissioner Armstrong indicated that he was in support of directing staff to conduct further research on the issue, but that such an activity, if allowed, should only be allowed with approval of a use permit with a specific finding of special circumstances.

Director Woltering clarified that review of such an activity through a use permit process with a finding of special circumstances would require the activity to meet detailed standards, requirements, and provisions that would address the impacts involved with such a use and ensure that these impacts would not negatively affect surrounding properties. Director Woltering reiterated that tonight's discussion, however, does not relate to these specifics but, rather, only to whether or not staff will be directed to research the issue and provide options for Planning Commission consideration.

Commissioner Johnson indicated that prohibitions on the keeping of chickens on residential lots located outside of the City's Agricultural District were established to maintain a quality residential environment within the City and to avoid detrimental impacts to residential properties.

In addition, there is already a zoning district within the City—the Agricultural District—which allows the keeping of chickens.

Chair Haydon indicated that tonight's discussion does not address the merits of such a use but, rather, only whether or not staff should be directed to move forward on further researching the issue. In that sense, research is a good thing and would be helpful in analyzing the components of this sort of activity.

Commissioner Manning indicated that, for example, the City's Municipal Code allows, by right, the keeping of dogs. As a comparison point, several dogs—especially large dogs—create a much greater impact than chickens. In looking at the bigger picture, it should be noted that exceptions may apply to a policy, and we should consider if exceptions are warranted or not, based on focused research and accurate information. The City's decision makers are not draconian in nature.

Chair Richardson indicated that, once staff has returned with research results and options for consideration, the Commission can thoroughly analyze the data provided.

Commissioner Johnson indicated that certain prohibitions are established for a reason and that, prior to purchase of a residence, it is a prospective homebuyer's responsibility to review all governing regulations applicable to a residential lot prior to purchase of that lot in order to be informed about what is allowed and what is prohibited.

Director Woltering indicated that, based on Planning Commission comments received by staff, there appeared to be a consensus to direct staff to conduct research and provide options for Commission consideration at a future meeting. Based on this consensus and direction, code enforcement related to this matter will be placed on hold until the Commission reviews the information presented by staff at a future meeting and provides staff with further direction on how the Commission wishes to proceed on this matter.

By a 4-1 consensus, the Planning Commission directed staff to initiate and implement the conducting of research and return to the Commission with options to address this matter.

Communications

6A. Staff – None.

6B. Commission – None.

Adjournment

7. The meeting was adjourned at 7:55 p.m. to the following regularly-scheduled meeting of **November 8, 2011.**



Submitted by
David Woltering, AICP
Community Development Director



Approved by
Dan Richardson
Chair

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