



Agenda
Planning Commission Meeting
7:00 P.M. on Tuesday, October 23, 2012
Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton

CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Administrative

- 1A. Review of agenda items.
- 1B. Commissioner Richardson to report at the City Council meeting on November 6, 2012.

Public Comment

Approval of Minutes

- 2. Approval of minutes from the meeting of September 25, 2012.

Public Hearing

- 3A. **SPR 03-12, Site Plan Review Permit, John Lazar**, 208 El Molino Drive, APN 119-472-001. A site plan review permit to consider a proposed second-story balcony to be located on the rear of a two-story single-family residence. The balcony measures approximately 200 square feet in area and is located approximately 10 feet above ground level.

Recommended Action: Approve, with conditions.

- 3B. **UP 02-12, Use Permit, Safeway Inc.**, 5431 Clayton Road, APN 118-031-056. A use permit to consider a proposal to allow displays of seasonal items such as plants and other promotional merchandise, periodic sales by local charities, and placement of five vending machines in front of the Safeway store in the Clayton Station shopping center. The displays, sales, and vending machines will not interfere with the minimum path-of-travel area of 48 inches as required by the Uniform Building Code.

Recommended Action: Approve, with conditions.

Old Business

- 4. None.

New Business

- 5. None.

Agenda
Planning Commission Meeting
Tuesday, October 23, 2012
Page 2

Communications

- 6A. Staff.
- 6B. Commission.

Adjournment

- 7. The next meeting of the Planning Commission is scheduled for **November 13, 2012.**

Most Planning Commission decisions are appealable to the City Council within ten (10) calendar days of the decision. Please contact Community Development Department staff for further information immediately following the decision. If the decision is appealed, the City Council will hold a public hearing and make a final decision. If you challenge a final decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing(s), either in oral testimony at the hearing(s) or in written correspondence delivered to the Community Development Department at or prior to the public hearing(s). Further, any court challenge must be made within 90 days of the final decision on the noticed matter. If you have a physical impairment that requires special accommodations to participate, please contact the Community Development Department at least 72 hours in advance of the meeting at 925-673-7340. An affirmative vote of the Planning Commission is required for approval. A tie vote (e.g., 2-2) is considered a denial. Therefore, applicants may wish to request a continuance to a later Commission meeting if only four Planning Commissioners are present.

Any writing or documents provided to the majority of the Planning Commission after distribution of the agenda packet regarding any item on this agenda will be made available for public inspection in the Community Development Department located at 6000 Heritage Trail during normal business hours.

Plng Comm\Agendas\2012\1023

Minutes
Clayton Planning Commission Meeting
Tuesday, September 25, 2012

Call to Order

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

Present: Chair Haydon, Vice Chair Gregg Manning, Commissioner David Bruzzone, Commissioner Sandra Johnson, Commissioner Dan Richardson

Absent: None

Staff: Community Development Director David Woltering

Administrative

1A. Review of agenda items.

1B. Vice Chair Manning to report at the City Council meeting on October 2, 2012.

Public Comment

None.

Approval of Minutes

2. Approval of minutes from the meeting of September 11, 2012.

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

Public Hearing

3. **DP 01-05, Development Plan Amendment, Mitchell Creek Place Homeowners Association**, Mitchell Creek Place residential subdivision located at the southeast corner of High Street and Oak Street in Clayton's Town Center. An amendment to the Mitchell Creek Place Development Plan Permit landscaping and irrigation conditions of approval (Conditions of Approval 1 and 23 – 29) in City Council Resolution No. 48-2006 to allow for on-site replacement trees to be a minimum of 15-gallons instead of 24-inch box in size. *Continued from the meeting of September 11, 2012.*

Community Development Director Woltering presented the staff report and stated that the Planning Commission had indicated general support for the use of 15-gallon replacement trees at the meeting on September 11, 2012, but had requested that staff work with the applicant to bring back suggested replacement trees for Commission review and approval at the September 25, 2012 meeting. Director Woltering explained that the applicant's certified arborist had suggested tree options for the Commission to consider and that staff had reviewed these options and made recommendations in the staff report from the arborist's list.

There were no questions of clarification by the Commissioners for Director Woltering.

Chair Haydon opened the public hearing.

Karen Haas, the applicant and a resident of the Mitchell Creek Place Homeowners Association, indicated that she was satisfied with the staff report and currently had no further comments.

Chair Haydon closed the public hearing.

Commissioner Johnson indicated she is familiar with the work of the applicant's landscape contractor, Landscape Care Company, and that the firm does reputable, high quality work.

Commissioner Richardson stated that the recommendations by staff from the applicant's proposed list of trees were acceptable.

Vice Chair Manning asked Director Woltering why staff had recommended the *Carpinus Fastigiata Frans Fontaine* instead of the *Acer Platanoides Crimson Sentry* for the "A" Location. *Director Woltering indicated that this location is relatively narrow and separates the subject property from an adjoining larger lot single-family residential property to the south. He said the growing characteristics of the Frans Fontaine are that it is more narrow and dense than the Acer Platanoides Crimson Sentry; the narrowness of the Frans Fontaine would make the tree a more appropriate fit for the space while its density would provide screening between the properties.*

Commissioner Richardson moved and Vice Chair Manning seconded a motion to recommend to the City Council that pertinent conditions of approval in Resolution 48-2006 be amended to allow replacement trees in the Mitchell Creek Place residential development to be a minimum of 15-gallon in size rather than 24-inch box in size. The Commission also accepted the *Acer Platanoides Globosum* tree as the replacement tree for the "C" and "B" locations and the *Carpinus Fastigiata Frans Fontaine* as the replacement tree for the for the "A" location shown on the map submitted by the applicant's landscape contractor, Landscape Care Company.

Old Business

4. None.

New Business

5. Clayton Club recommendation to modify the City's Noise Regulations (Information Only).

Community Development Director Woltering presented the staff report. He indicted the City had received complaints about amplified music late at night (typically after 10:00 p.m.) coming from the Clayton Club. Director Woltering stated that, over the past six months, Chief of Police Dan Lawrence and he met with the operators of the Clayton Club to address these complaints. He described the provisions of the Municipal Code and General Plan Noise Element that were being violated and the monitoring that was used to help determine measures to address the complaints. He also described the staff's observations that, with increased business activity, patrons of the Club would move in larger numbers to the outdoor garden area and that the rear door would be left open for ventilation. Director Woltering said they determined that maintaining the indoor noise levels below 95 decibels and keeping the doors closed after 10:00 p.m. generally resulted in compliance with the thresholds being used. He stated that more indoor ventilation was needed with the doors closed so the operators agreed to increase the number of fans being used inside. Despite these efforts, the City subsequently received a letter from the Clayton Club operators appreciating the efforts made, but indicating concerns that the measures they agreed to created financial hardships for their business. They noted the vision for the Town Center area is a

mixed-use environment and that it would be useful for the City to update its General Plan Noise Element and Noise regulations in Chapter 9.30 of the Clayton Municipal Code to create measurable standards to fairly guide future use and development within this area. Director Woltering indicated he believed this effort would cost a minimum of \$25,000 to complete and require approximately one year of review and processing.

Vice Chair Manning indicated it is his observation that ambient noise generally decreases late at night and that individual noise incidents are then more noticeable. *Director Woltering agreed and added that most community noise regulations are more restrictive from 10:00 p.m. to 7:00 a.m. with the understanding that this is a time period when most people are sleeping and expecting less noise.*

The Commissioners generally agreed that an update to the current regulations would likely result in more restrictive standards being adopted to consider the interests of additional residents to reside in the Town Center area in the future.

Communications

6A. Staff.

Director Woltering informed the Commission that staff had been working with Ms. Jessica Relei to assure that she satisfies the conditions of her recently approved Home Occupation Permit to operate a hair salon. He indicated that staff discovered that the home business was not being run from the primary residence, as proposed by the applicant, but that the applicant had relocated the business from a secondary unit on the property to the primary unit in accordance with the approval granted by the Planning Commission.

Commissioner Johnson indicated she believes that more than the allowed six patrons a day are visiting the salon. *Director Woltering indicated that staff would follow-up and investigate that concern along with assuring the applicant complies with other conditions of approval.*

6B. Commission.

Commissioner Richardson reported that he had attended a TRANSPAC meeting recently and that the group acknowledged former Clayton representative Bob Armstrong and celebrated the 50th anniversary of the Benicia Bridge.

Adjournment

7. The meeting was adjourned at 8:14 p.m. to the next regularly scheduled meeting of October 9, 2012.

Submitted by
David Woltering, AICP
Community Development Director

Approved by
Keith Haydon
Chair

Plng Comm\Minutes\2012\0925

PLANNING COMMISSION STAFF REPORT

Meeting Date: October 23, 2012

From: David Woltering, AICP 
Community Development Director

Subject: Second Story Balcony at 208 El Molino Drive
Site Plan Review Permit (SPR 03-12)

REQUEST

A site plan review permit to consider a proposed second-story balcony to be located on the rear of a two-story single-family residence.

PROJECT INFORMATION

Applicant/Location: John Lazar
208 El Molino Drive
Clayton, California 94517
APN 119-472-001
(See **Attachment 1** for Location Map)

General Plan Designation: Low Density – Single Family Residential (1.1 to 3.0 units per acre).

Zoning: Regency Woods Planned Development (PD).

Environmental Review: Categorically exempt per Section 15303(e), Class 3 of the California Environmental Quality Act (CEQA) Guidelines.

Public Notice: On October 12, 2012, a public hearing notice was posted at the notice boards, mailed to property owners within 300 feet of the site, and e-mailed to the newspapers.

Agency Referrals The City Engineer had no comments. The Contra Costa County Building Inspection Department, Contra Costa County Fire Protection District, and Contra Costa Water District did not respond.

Authority Section 17.44.020 of the Clayton Municipal Code (CMC) authorizes the Planning Commission to approve a site plan review permit in accordance with the standards of review in CMC Section 17.44.040.

BACKGROUND AND ANALYSIS

The applicant is requesting Planning Commission approval of a site plan review permit to allow an approximate 200 square-foot second-story balcony to be located on the rear of a two-story single-family residence. The height of the proposed deck is 10 feet 2 inches from ground level to the balcony deck with a 3-foot 6-inch railing bringing the total height of the structure to 13 feet 8 inches. The project site plan and architectural elevations are provided as **Attachment 2**.

Currently, an approximate 32 square-foot balcony and existing wrought iron spiral staircase are in the same location where the new balcony is being proposed. As part of the project, the existing balcony will be removed and the existing spiral staircase will be relocated approximately seven feet to the north of its current location where it will be attached to the new balcony. As part of the project, a new seat bench and backrest planter box will be installed along the west side of the balcony.

The balcony supports, railings, and deck will be constructed of wood and are proposed to be painted light brown to match the existing earth tone colors of the residence. The existing relocated staircase would maintain its current wrought iron appearance which will provide a punctuating highlight component against the backdrop of earth tone colors on the balcony and residence. Staff has provided a condition that all balcony components (deck, supports, railings) be painted to match the color scheme of the residence.

Setback Analysis

Since the balcony is proposed in a recessed area along the residence's rear façade and within the building envelope, it will not change the front or side setbacks. The balcony will, however, project slightly beyond the existing rear wall of the residence. The existing rear setback to the residence is 43 feet 6 inches. The proposed rear setback after the balcony is constructed is 40 feet 2 inches, complying with the Regency Woods Planned Development rear setback standard of 20 feet.

Section 17.36.030 of the Municipal Code exempts open stairways from setback requirements as long as such structures "do not obstruct the light and ventilation of any adjoining parcel of land." Since the stairway to the balcony does not create a light or ventilation obstruction, the stairway portion of the project would qualify for this exemption and would not be counted against the required setbacks. When relocated, the staircase would be a minimum of 13 feet 1 inch from the side property line.

Residential Floor Area Analysis

Section 17.78.030.D.3 of the Municipal Code excludes balconies and other structures (stairways) from floor area calculations "where at least one of the longest dimensions is unenclosed." Since the balcony and stairway are unenclosed, these structures would not be subject to floor area requirements.

Conclusion

Staff has reviewed the design aspects of the proposed plans relative to the standards for Site Plan Review Permits and determined that the project, as conditioned, is in conformance with the standards. The proposed findings listed below specifically address the standards.

RECOMMENDATION

Staff recommends that the Planning Commission approve Site Plan Review Permit SPR 03-12, based upon the following findings and subject to the following conditions.

Proposed Findings of Approval

Based upon the evidence set forth in the staff report, which includes relevant information from the project file, as well as testimony at the public hearing, the Planning Commission makes the following findings that Site Plan Review Permit SPR 03-12, as conditioned:

1. Is consistent with the General Plan designation and policies.
2. Meets the standards and requirements of the Zoning Ordinance.
3. Preserves the general safety of the community regarding seismic, landslide, flooding, fire, and traffic hazards.
4. Maintains solar rights of adjacent properties.
5. Reasonably maintains the privacy of adjacent property owners and/or occupants.
6. Reasonably maintains the existing views of adjacent property owners and/or occupants.
7. Is complementary, although not identical, with adjacent existing structures in terms of materials, colors, size, and bulk.
8. Is compatible with the neighborhood and surrounding land uses.

The above-stated findings assume acceptance and approval of the proposed conditions of approval listed below.

Proposed Conditions of Approval

These conditions of approval apply to the Lazar Residence Extended Deck Site Plan and Architectural Elevations, date stamped October 17, 2012.

1. The balcony and all associated components (deck, supports, railings) shall be painted to match the color scheme of the residence.
2. The applicant agrees to indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including, but not limited to, attorney's fees, costs, and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, and any environmental review conducted under the California Environmental Quality Act for this entitlement and related actions.

Advisory Notes

Advisory notes are provided to inform the applicant of: (a) Clayton Municipal Code requirements; and (b) requirements imposed by other agencies. The advisory notes state requirements that may be in addition to the conditions of approval.

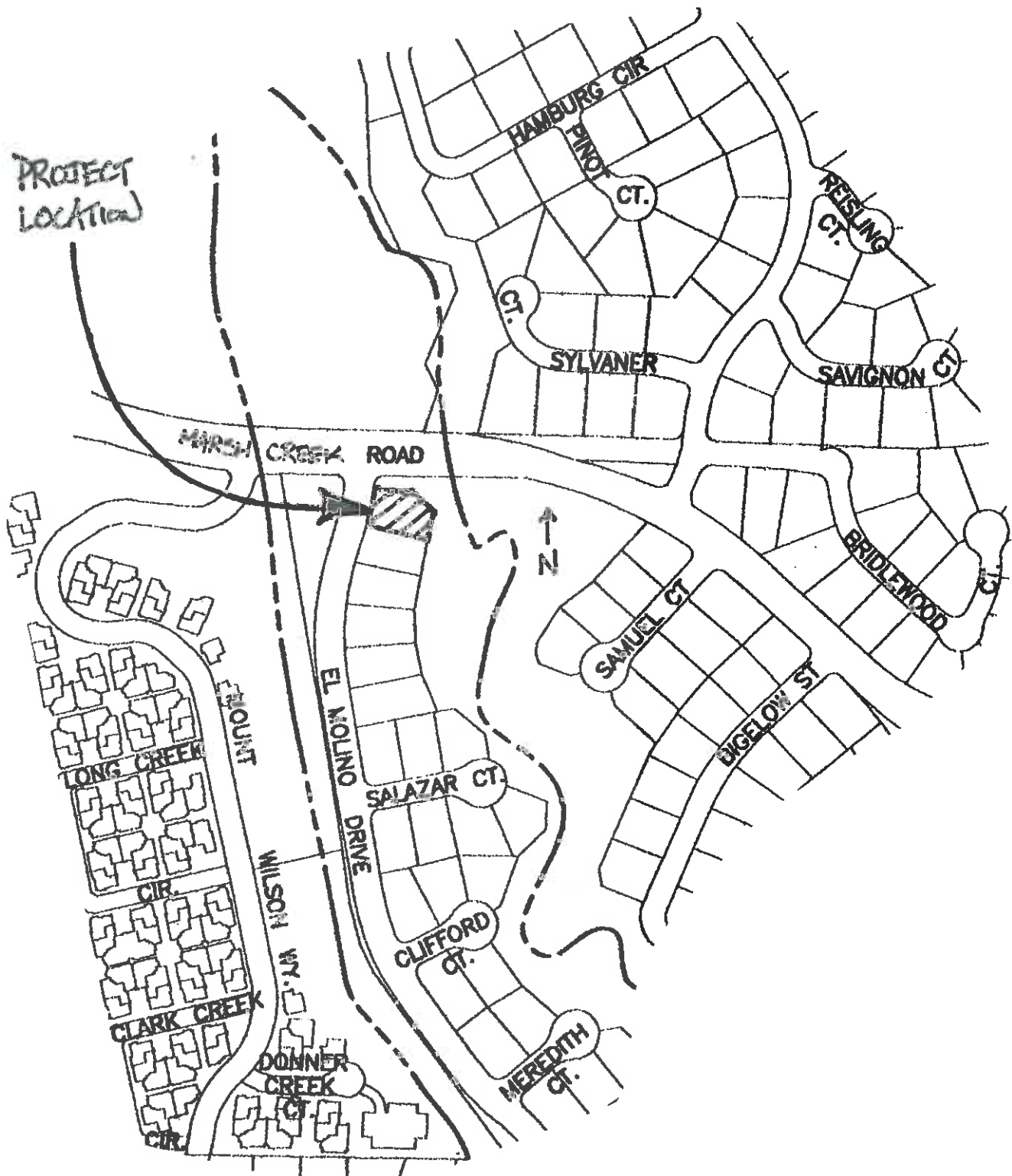
1. The applicant shall comply with all applicable State, County, and City codes, regulations and adopted standards as well as pay all associated fees and charges.
2. This Site Plan Review Permit shall be used, exercised, or established within twelve months after the granting of the Permit, or a time extension must be obtained from the Planning Commission, otherwise the Permit shall be null and void (CMC § 17.64.010-17.64.030).

3. All construction and other work shall occur only between 7:00 a.m. and 5:00 p.m. Monday through Friday. Any such work beyond these hours and days is strictly prohibited unless specifically authorized in writing by the City Engineer (CMC § 15.01.101) located at 5375 Clayton Road, Concord, 925-363-7433.
4. The applicant shall obtain the necessary building permits from the Contra Costa County Building Inspection Department.
5. Additional requirements may be imposed by the Contra Costa County Fire Protection District. Before proceeding with the project, it is advisable to check with the Fire District located at 2010 Geary Road, Pleasant Hill, 925-930-5500.
6. If the project site is located within an area subject to covenants, conditions, and restrictions (CC&Rs) administered by a homeowners' association (HOA), additional requirements and/or approvals may be required by the HOA. Before proceeding with the project, it is advisable to check with the HOA to ensure any applicable requirements are met.

ATTACHMENTS

- 1 Location Map
- 2 Lazar Residence Extended Deck Site Plan and Architectural Elevations, date stamped October 17, 2012
- 3 Photographs of the existing balcony and existing staircase, taken by staff on October 18, 2012

SPR\2012\03-12.sr.pc.10.23.12.lazar



Location Map
208 El Molino Drive
APN 119-472-001

EXISTING GROUND LEVEL PLAN

1. REMAIN EXISTING WITH NEW FENCE LINE. SEE NOTE FOR FENCE LINE OF DECK. SEE PLAN FOR FENCE LINE AND CONCRETE CURB. SEE WALL SECTION. SEE ALSO ANY NOTES.
2. REMAIN EXISTING WITH NEW FENCE LINE. SEE NOTE FOR FENCE LINE OF DECK. SEE PLAN FOR FENCE LINE AND CONCRETE CURB. SEE WALL SECTION. SEE ALSO ANY NOTES.

PROPOSED GROUND LEVEL PLAN

1. FENCE AND RETAINMENT WALL TO BE NEW. SEE NOTE FOR FENCE LINE OF DECK. SEE PLAN FOR FENCE LINE AND CONCRETE CURB. SEE WALL SECTION. SEE ALSO ANY NOTES.
2. FENCE AND RETAINMENT WALL TO BE NEW. SEE NOTE FOR FENCE LINE OF DECK. SEE PLAN FOR FENCE LINE AND CONCRETE CURB. SEE WALL SECTION. SEE ALSO ANY NOTES.
3. FENCE AND RETAINMENT WALL TO BE NEW. SEE NOTE FOR FENCE LINE OF DECK. SEE PLAN FOR FENCE LINE AND CONCRETE CURB. SEE WALL SECTION. SEE ALSO ANY NOTES.
4. FENCE AND RETAINMENT WALL TO BE NEW. SEE NOTE FOR FENCE LINE OF DECK. SEE PLAN FOR FENCE LINE AND CONCRETE CURB. SEE WALL SECTION. SEE ALSO ANY NOTES.

RECEIVED

OCT 17 2012

CLAYTON COMMUNITY DEVELOPMENT DEPT

EXISTING DECK LEVEL PLAN

1. REMAIN EXISTING WITH NEW FENCE LINE. SEE NOTE FOR FENCE LINE OF DECK. SEE PLAN FOR FENCE LINE AND CONCRETE CURB. SEE WALL SECTION. SEE ALSO ANY NOTES.
2. REMAIN EXISTING WITH NEW FENCE LINE. SEE NOTE FOR FENCE LINE OF DECK. SEE PLAN FOR FENCE LINE AND CONCRETE CURB. SEE WALL SECTION. SEE ALSO ANY NOTES.

PROPOSED DECK LEVEL PLAN

1. REMAIN EXISTING WITH NEW FENCE LINE. SEE NOTE FOR FENCE LINE OF DECK. SEE PLAN FOR FENCE LINE AND CONCRETE CURB. SEE WALL SECTION. SEE ALSO ANY NOTES.
2. REMAIN EXISTING WITH NEW FENCE LINE. SEE NOTE FOR FENCE LINE OF DECK. SEE PLAN FOR FENCE LINE AND CONCRETE CURB. SEE WALL SECTION. SEE ALSO ANY NOTES.
3. REMAIN EXISTING WITH NEW FENCE LINE. SEE NOTE FOR FENCE LINE OF DECK. SEE PLAN FOR FENCE LINE AND CONCRETE CURB. SEE WALL SECTION. SEE ALSO ANY NOTES.

EXISTING EXTERIOR ELEVATION

1. REMAIN EXISTING WITH NEW FENCE LINE. SEE NOTE FOR FENCE LINE OF DECK. SEE PLAN FOR FENCE LINE AND CONCRETE CURB. SEE WALL SECTION. SEE ALSO ANY NOTES.
2. REMAIN EXISTING WITH NEW FENCE LINE. SEE NOTE FOR FENCE LINE OF DECK. SEE PLAN FOR FENCE LINE AND CONCRETE CURB. SEE WALL SECTION. SEE ALSO ANY NOTES.

PROPOSED EXTERIOR ELEVATION

1. REMAIN EXISTING WITH NEW FENCE LINE. SEE NOTE FOR FENCE LINE OF DECK. SEE PLAN FOR FENCE LINE AND CONCRETE CURB. SEE WALL SECTION. SEE ALSO ANY NOTES.
2. REMAIN EXISTING WITH NEW FENCE LINE. SEE NOTE FOR FENCE LINE OF DECK. SEE PLAN FOR FENCE LINE AND CONCRETE CURB. SEE WALL SECTION. SEE ALSO ANY NOTES.
3. REMAIN EXISTING WITH NEW FENCE LINE. SEE NOTE FOR FENCE LINE OF DECK. SEE PLAN FOR FENCE LINE AND CONCRETE CURB. SEE WALL SECTION. SEE ALSO ANY NOTES.
4. REMAIN EXISTING WITH NEW FENCE LINE. SEE NOTE FOR FENCE LINE OF DECK. SEE PLAN FOR FENCE LINE AND CONCRETE CURB. SEE WALL SECTION. SEE ALSO ANY NOTES.

Lazar Residence
Extended Deck

245 El Molino Drive
Clayton, CA 94517



DE JESUS ARCHITECTS
Commercial | Planning | Residential
4000 Market Street, Suite 200
Oakland, CA 94612
510.337.4444
info@dejesusarchitects.com
www.dejesusarchitects.com

01.10.12

Consultant

Project No.:
Date:
No.:
2012.0010 CLIENT REVIEW

Copyright © 2012 De Jesus Architects, Inc. All rights reserved. No part of this document may be reproduced or transmitted in any form or by any means electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without prior written permission of the architect.

EXISTING & PROPOSED DECK PLANS AND EXTERIOR ELEVATIONS

Code: 01.10.12
Sheet: 1 of 1
Drawn By: GJ
Checked By: GJ

A1.0





PLANNING COMMISSION STAFF REPORT

Meeting Date: October 23, 2012

From: Milan J. Sikela, Jr. 
Assistant Planner

Subject: Safeway Use Permit (UP 02-12)

REQUEST

A Use Permit to consider a proposal to allow displays of seasonal items such as plants and other promotional merchandise, periodic sales by local charities, and placement of five vending machines in front of the Safeway store in the Clayton Station shopping center.

PROJECT INFORMATION

Applicant/Property Owner: Safeway Inc.
5918 Stoneridge Mall Road
Pleasanton, California 94566

Location: 5431 Clayton Road
Clayton, California 94517
APN 118-031-056

General Plan Designation: Kirker Corridor Commercial. This proposal complies with the General Plan designation.

Zoning: PD – Planned Development.

Environmental Review: Categorically exempt per Sections 15304(e) Class 4 of the California Environmental Quality Act (CEQA) Guidelines.

Public Notice: On October 12, 2012, a public hearing notice was posted at the notice boards and mailed to property owners within 300 feet of the site. To date, no comments have been received by staff.

Agency Referrals: The City Engineer has no comments. The Contra Costa County Building Inspection Department's and Contra Costa County Fire Protection District's comments have been incorporated into the Conditions of Approval and Advisory Notes.

Authority: Section 17.42.050.A.3 of the Clayton Municipal Code (CMC) authorizes the Planning Commission to approve a Use Permit in accordance with the Findings in CMC Section 17.42.050.B and Standards of Review in CMC Section 17.60.040.

DISCUSSION

The applicant, Safeway Inc., has requested approval of a Use Permit to allow displays of seasonal items such as plants and other promotional merchandise and periodic sales by local charities (termed “outdoor merchandise display”) as well as five vending machines in front of the Safeway store in the Clayton Station shopping center (please see **Attachment 1**). The locations proposed for outdoor merchandise display are as follows:

- To the left of the western front entrance;
- To the right of the western front entrance; and
- To the left of the eastern front entrance.

In addition, five vending machines will be located to the right of the eastern entrance. Two of the vending machines will be located directly to the right of the eastern entrance and three more vending machines will be located further to the right of the first location. Staff has provided a condition addressing these locations.

In order to address the placement of the outdoor merchandise display and vending machines, staff has provided a condition that the areas used for outdoor merchandise display and vending machine placement shall maintain a minimum distance of three feet from all doorways. Also, staff observed that the outdoor merchandise display area to the right of the western entrance is located in close proximity to the outdoor shopping cart storage area. As a result, staff has provided a condition that areas used for outdoor merchandise display and vending machine placement shall maintain a minimum distance of seven feet from all shopping cart storage areas in order to allow patrons adequate access to the shopping cart storage areas. Lastly, staff has provided a condition that areas used for outdoor merchandise display and vending machine placement shall maintain a minimum distance of fifty five (55) inches from all other structures in order to provide a minimum “path-of-travel”, i.e. passageway, free and clear of all obstructions, in accordance with the Uniform Building Code and Americans With Disabilities Act.

ANALYSIS AND CONCLUSION

Since the proposal will not involve parking impacts or traffic; will not generate noise levels in violation of the General Plan Noise Element; will not create significant levels of dust, airborne particulate, fumes, smells, or litter; and is not a place that would result in crime or negative influences on minors; staff concludes that, as conditioned, the project complies with the Use Permit Standards of Review listed in Section 17.60.040 of the Clayton Municipal Code.

RECOMMENDATION

Staff recommends that the Planning Commission approve Use Permit UP 02-12 to allow displays of seasonal items such as plants and other promotional merchandise, periodic sales by local charities, and placement of five vending machines in front of the Safeway store in the Clayton Station shopping center at 5431 Clayton Road in Clayton.

PROPOSED FINDINGS OF APPROVAL

Based upon the evidence set forth in the staff report, which includes relevant information from the project file, as well as testimony at the public hearing, the Planning Commission makes the following Findings of Approval that Use Permit UP 02-12, as conditioned:

1. Is in conformity with the General Plan.
2. Is in conformity with City-adopted standards.
3. Will not negatively affect the general safety (e.g., seismic, landslide, flooding, fire, traffic) or the City or surrounding area.
4. Will not have significant negative impacts on the health or general welfare of residents, businesses, property owners, or employees in the City.
5. Will be in accord with the purpose of Use Permits as stated in Chapter 17.60 of the Clayton Municipal Code.
6. Incorporates elements of space, rhythm, and functional, yet aesthetic, placement of the outdoor items in such a way as to maximize integration with the Safeway building and, as a result, limit visual impacts upon the surrounding area and neighborhood.

The above-stated findings assume acceptance and approval of the proposed Conditions of Approval listed below.

PROPOSED CONDITIONS OF APPROVAL

These Conditions of Approval apply to the Safeway Use Permit Site Plan, submitted by the applicant, date stamped October 3, 2012; and Use Permit Description, submitted by the applicant, date stamped October 3, 2012.

1. The areas used for outdoor merchandise display shall be allowed in the following areas:
 - a. To the left of the western front entrance;
 - b. To the right of the western front entrance; and
 - c. To the left of the eastern front entrance.
2. The areas used for vending machine placement shall be allowed in the two locations to the right of the eastern entrance; the first location directly to the right of the eastern entrance and the second location further to the right of the first location.
3. The areas used for outdoor merchandise display and vending machine placement shall maintain a minimum distance of three (3) feet from all doorways.
4. The areas used for outdoor merchandise display and vending machine placement shall maintain a minimum distance of seven (7) feet from all shopping cart storage areas.
5. The areas used for outdoor merchandise display and vending machine placement shall maintain a minimum distance of fifty five (55) inches from all other structures in order to provide a minimum "path-of-travel" passageway free and clear of all obstructions, in accordance with the Uniform Building Code and Americans With Disabilities Act.
6. The applicant agrees to indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including, but not limited to, attorney's fees, costs, and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, and any environmental review conducted under the California Environmental Quality Act for this entitlement and related actions.

ADVISORY NOTES

These Advisory Notes are provided to inform the applicant of: (a) Clayton Municipal Code requirements; or (b) requirements imposed by other agencies. These Advisory Notes state requirements that may be in addition to the Conditions of Approval.

1. The applicant shall comply with all applicable City, County, State, and Americans With Disabilities Act codes, regulations, and adopted standards.
2. This Use Permit shall be used, exercised, or established within twelve months after granting of the Permit or a time extension must be obtained from the Planning Commission otherwise the Permit shall be null and void (Clayton Municipal Code Section 17.64.010-030).

ATTACHMENTS

- 1 Safeway Use Permit Site Plan, submitted by the applicant, date stamped October 3, 2012
- 2 Safeway Use Permit Description, submitted by the applicant, date stamped October 3, 2012

UP\2012\02-12.sr.pc.10.23.12.safeway.outdoor.storage

Ewing
 10000 Ewing Ave.
 Suite 200
 Clayton, CA 94520
 925.462.5012
 925.462.5013
 Fax: 925.462.5014
 ewing@ewing.com

ATTACHMENT
 1

KIRKER PASS ROAD

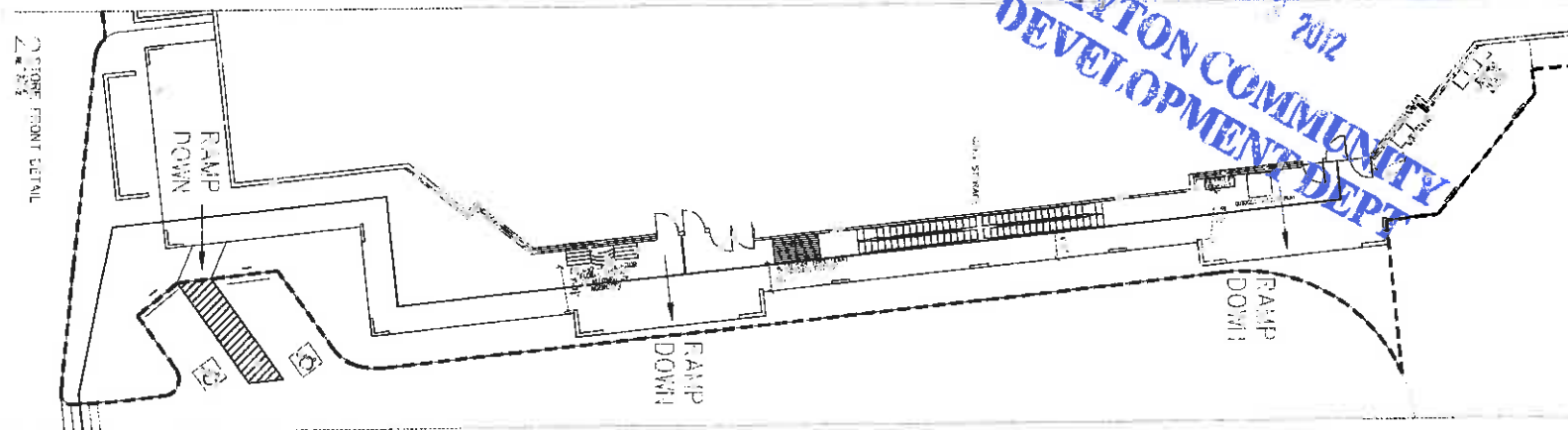
SAFEWAY
 F.F. 309.00'

SEE DETAIL & THIRD SHEET

FOR REFERENCE ONLY
 REMODEL SITE PLAN



RECEIVED
 OCT 7 2012
 CLAYTON COMMUNITY
 DEVELOPMENT DEPT



REMODEL SAFEWAY STORE #1190
 CLAYTON, CALIFORNIA
 32,827 G.S.F. N.E.M.S. NO. 20033501
 DATE: 12/10/2011



**SAFEWAY STORE #1195
5431 CLAYTON ROAD
USE PERMIT APPLICATION
OCTOBER 1, 2012**

Project Description

In accordance with the submitted Safeway Use Permit Site Plan, Safeway is requesting the City's approval to use the area in front of its store to locate the following items with the understanding that such uses do not materially interfere with pedestrian traffic and that Safeway maintains the areas in a neat and orderly condition:

- Display of seasonal items, such as plants and other promotional merchandise;
- Periodic sales by local charities, such as Girl Scouts and local schools; and
- Five vending machines to be placed along the front of the building, to include Blue Rhino dispensers.