

Minutes
Clayton Planning Commission Meeting
Tuesday, June 25, 2013

Call to Order

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

Present: Chair Keith Haydon
Vice Chair Gregg Manning
Commissioner Sandra Johnson
Commissioner Dan Richardson
Absent: Commissioner David Bruzzone
Staff: Community Development Director Charlie Mullen
Assistant Planner Milan J. Sikela, Jr.

CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Administrative

- 1A. Review of agenda items.
- 1B. Vice Chair Gregg Manning to report at the City Council meeting on July 2, 2013.

Public Comment

None.

Approval of Minutes

- 2. Approval of the minutes from the April 23, 2013 Planning Commission meeting.

Vice Chair Manning moved and Commissioner Richardson seconded a motion to approve the minutes, as submitted. The motion passed 4-0.

Public Hearing

- 3A. **SPA-01-13, Specific Plan Amendment, Matt Mazzei**, 8130 Marsh Creek Road, APN: 118-020-046. A request for consideration of an amendment to the Marsh Creek Road Specific Plan in order to establish residential accessory structure standards. An Environmental Impact Report (SCH# 95013014) was previously approved and certified for the Marsh Creek Road Specific Plan and pursuant to the California Environmental Quality Act (CEQA) Guideline 15061(b)(3) it can be seen with certainty that there is no possibility that the proposed amendment may have a significant effect on the environment and, therefore, is not subject to CEQA.

The public hearing was opened.

Director Mullen presented the staff report and read into the record the email comments provided by Commissioner Bruzzone who was absent from tonight's meeting.

Chair Haydon confirmed that staff was looking for direction tonight and, based on Planning Commission direction, staff would return with a proposal for a decision to be rendered. Director Mullen indicated that was correct.

Commissioner Johnson indicated that, given that the project area is within the conflict-of-interest radius of her property, she could participate in tonight's meeting but, in accordance with Fair Political Practices Commission provisions, she could not participate in the decision-making component of the Commission review process.

The applicant, Matt Mazzei, provided comments and explained that a small detached accessory structure already existed in the right side yard area and he constructed an addition on the existing accessory structure which enlarged the total area of the accessory structure.

Chair Haydon asked Mr. Mazzei which option he preferred. Mr. Mazzei answered that he prefers Option 3 in the staff report, which would establish development standards for his Planned Development zone.

John Roskelley, 5675 Pine Hollow Road, indicated that he concurred with staff and Mr. Mazzei and was in support of Option 3 in the staff report in order to address the detached accessory structure.

Commissioner Johnson confirmed that development standards would be established for this particular Planned Development District that would address detached accessory structure setbacks. Director Mullen indicated that was correct.

Director Mullen indicated that he had been informed by the Contra Costa County Building Inspection Department (CCCBID) that if two buildings have less than a five-foot separation, the walls within the buildings must be one-hour fire-rated.

Commissioner Richardson had the following questions:

- Does the CCCBID measure distances from wall to wall or eave to eave?
- What are the required minimum fire-ratings for building separation distances of over five feet, between five feet and three feet, and less than three feet? Director Mullen responded that staff would research the issue further and return to the Commission with the requested information.

Chair Haydon indicated the following:

- I prefer Option 3 in the staff report.
- We need to ensure that the structure meets building code separation requirements.

Vice Chair Manning indicated the following:

- I was involved in the establishing of the Marsh Creek Road Specific Plan and there was a lot of work done and time spent on creation, review, and approval of the document.
- I support Option 3 in the staff report.

Commissioner Richardson indicated the following:

- I agree that Option 3 in the staff report is the best choice.
- We need to clarify the applicable fire safety requirements.

The public hearing was closed.

By consensus, the Planning Commission selected Option 3 in the staff report to have staff return to the Commission with a resolution to establish development standards for detached accessory buildings in the subject Planned Development district.

3B. ZOA-02-13, Municipal Code Amendment, City of Clayton. Consideration of a City-initiated Ordinance amending the Clayton Municipal Code Title 17, establishing Prohibited Uses and Activities and specifically prohibiting medical marijuana dispensaries and certain cultivation activities.

The public hearing was opened.

Director Mullen presented the staff report.

Chair Haydon confirmed that staff has initiated this Municipal Code amendment at the direction of the City Council. Director Mullen responded that was correct and added that the City Council provided direction after the recent *California Supreme Court Case of City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*

Community Development Director Charlie Mullen presented the staff report and read into the record the email comments provided by Commissioner Bruzzone who was absent from tonight's meeting.

Director Mullen explained that the City Attorney indicated the City has the legal right to implement this Ordinance.

Vice Chair Manning asked that, even though the State allows growing of plants, the City would not allow indoor and outdoor growing under this proposed Ordinance? Director Mullen responded that the City Attorney had indicated that the City is prohibiting certain cultivation activities unless you are a primary caregiver or qualified patient.

John Roskelley, 5675 Pine Hollow Road, indicated the following:

- In Berkeley, a cannabis dispensary was established in a particular neighborhood where crime was a problem. Once the cannabis dispensary was established, the crime rate in the neighborhood dropped. Then the cannabis dispensary was closed, and the crime levels in the neighborhood returned to higher levels.
- The City should be compassionate in allowing outside growth of one or two plants.

Commissioner Johnson indicated that she was in favor of the Ordinance.

Vice Chair Manning indicated that the Ordinance should state the maximum number of plants allowed for a primary care giver or qualified patient. The City Attorney wanted to word the Ordinance in such a way as to refer to State law, but not to specify an actual number in case the maxima allowed by State law is modified in the future.

Commissioner Richardson indicated that, although State law is appropriate in allowing sick people to receive some benefit, he supported the Ordinance in order to restrict certain types of plant growth.

Chair Haydon indicated that the intent of the Ordinance is not to infringe on caregivers and qualified patients but, rather, to prohibit growth outside the primary intent of State law.

Director Mullen explained that the City Attorney indicated that we are implementing this Ordinance in accordance with the City's policy and land use rights.

The public hearing was closed.

Commissioner Richardson moved and Commissioner Johnson second a motion to adopt Resolution No. 03-13 recommending City Council approval of an Ordinance amending the Clayton Municipal Code Title 17, establishing Prohibiting Uses and Activities and specifically prohibiting Medical Marijuana Dispensaries and certain cultivation activities. The motion passed 4-0.

Old Business

4. None.

New Business

5. None.

Communications

6A. Staff.

Community Development Director Charlie Mullen provided updates on the Housing Element Update, Silver Oak Estates, Skipolini's Pizza, and the Cottage Food Industry amendment.

6B. Commission – None.

Adjournment

7. The meeting was adjourned at 8:15 p.m. to the regularly-scheduled meeting of July 9, 2013.


Submitted by
Charlie Mullen
Community Development Director

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Approved by
Keith Haydon
Chair