



Agenda

Planning Commission Meeting

7:00 P.M. on Tuesday, July 23, 2013

Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton

CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Administrative

- 1A. Selection of Chair and Vice Chair.
- 1B. Review of agenda items.
- 1C. Commissioner David Bruzzone to report at the City Council meeting on August 20, 2013 (alternate Planning Commissioner: Chair Keith Haydon).

Public Comment

Approval of Minutes

- 2. Approval of the minutes from the June 25, 2013 Planning Commission meeting.

Public Hearing

- 3. **DP-01-13, Development Plan Permit, Matt Mazzei.** A request for a Development Plan Permit to establish Planned Development (PD) Zoning District standards for five (5) existing developed residential properties located on a private driveway off of Marsh Creek Road. The PD standards will establish building setback and building height standards for the principal building and accessory structures, where none currently exist. The specific property addresses include 8106, 8114, 8118, 8130, and 8140 Marsh Creek Road, with corresponding Assessor Parcel Numbers (APNs) of 078-020-041, -042, -045, -046 and -040. Pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3) it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment, and therefore it is not subject to CEQA.

Recommended Action: Staff recommends that the Planning Commission consider all information provided and submitted, take and consider all public testimony, and, if determined to be appropriate, adopt Resolution 04-13, recommending City Council approval of Development Plan Permit (DP-01-13) to establish Planned Development (PD) Zoning District standards.

Agenda
Planning Commission Meeting
Tuesday, July 23, 2013
Page 2

Old Business

4. None.

New Business

5. None.

Communications

- 6A. Staff.
6B. Commission.

Adjournment

7. The next regularly-scheduled meeting of the Planning Commission is on **Tuesday, August 13, 2013.**

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\2013\0723

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 indicated that was correct as 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.

Vice Chair 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

Approved by
Keith Haydon
Chair

Plng Comm\Minutes\2013\0625

**CITY OF CLAYTON
PLANNING COMMISSION
STAFF REPORT**

Meeting Date: July 23, 2013

From: Charlie Mullen
Community Development Director 

Subject: Public Hearing to consider a request for a Development Plan Permit to establish Planned Development (PD) Zoning District standards for five (5) existing developed residential properties located on a private driveway off of Marsh Creek Road. The PD standards will establish building setback and building height standards for the principal building and accessory structures, where none currently exist. The specific property addresses include 8106, 8114, 8118, 8130 & 8140 Marsh Creek Road, with corresponding Assessor Parcel Numbers (APN's) of 078-020-041, 042, 045, 046 & 040; (DP-01-13).

REQUEST

The applicant, Matt Mazzei is requesting the City to consider a Development Plan Permit (DP-01-13) to establish Planned Development (PD) Zoning District standards for five (5) existing developed residential properties located on a private driveway off of Marsh Creek Road.

PROJECT INFORMATION

Applicant:	Matt Mazzei
Location:	8106, 8114, 8118, 8130 & 8140 Marsh Creek Road APN's: 078-020-041, 042, 045, 046 & 040.
General Plan Designation:	Single Family Low Density
Zoning Classification:	Planned Development
Specific Plan Designation:	Marsh Creek Road Specific Plan
Public Notice:	On July 12, 2013, a public hearing notice was advertised in the Contra Costa Times and notice was mailed to property owners within 300 feet of the site and posted at designated locations.

BACKGROUND

On June 25, 2013, the Planning Commission conducted a public hearing to consider a request to amend the Marsh Creek Road Specific Plan to establish residential accessory structure standards where currently no regulations or standards exist. Upon considering the matter and the four (4) options outlined in the June 25th staff report (attached), the Planning Commission gave direction to staff to develop and bring back Planned Development Standards to address this matter, rather than an amendment to the Marsh Creek Road Specific Plan as was originally proposed. The applicant agreed with this direction.

The Planning Commission also requested staff to consult with County Building Services on the separation requirements between an accessory structure (over 120 s.f. in area) and the principal building to see if there would be any Building Code compliance issues. Staff verified that a building separation between 3' to 10' would typically trigger 1-hour fire rating of an accessory structure (i.e. interior ½" sheet rock) and roof eaves with separations of 2' to 5' also required 1-hour fire rating. Any building separation less than 3' and any roof eave separation less than 2' may trigger additional fire rating depending on the construction and use of the accessory structure and the construction of the existing principal building. In summary the existing unauthorized accessory structure at 8130 Marsh Creek Road can most likely be brought up to Building Code standards during the County plan check process.

DISCUSSION

In accordance with Planning Commission direction staff has come back with Planned Development (PD) standards under the Development Plan permit process. This approach is consistent with many of the approved residential PD's in Clayton that include varying standards for principal buildings and accessory structures that are unique and tailored to the individual PD (see attached PD Summary Standards Table). In the case of the subject properties, they were all part of a 5-lot subdivision (originally 4 lots) that was created under the County. All the lots have one commonly shared private driveway access off of Marsh Creek Road. In 1990, when the adjacent Oakwood Subdivision Planned Development was annexed, these lots were included in the larger Oakwood annexation and were given a PD zoning designation at that time. However, because the lots already existed the City did not require a PD Development Plan permit for them.

However, in retrospect the establishment of PD standards would appear to have been beneficial in providing guidance and direction for principal building additions and new accessory structures. In order to address this current lack of clear standards, staff proposes the following PD standards to apply to subject 5 lots (see vicinity map).

Mazzei – Planned Development Standards

Principal Building Setbacks

Front	20', 15' for side-loaded garages
Interior Side	10', 25' aggregate
Rear	25'
Marsh Creek Rd.	80'

Principal Building Height

2 ½ stories, 35' max.

Accessory Structure Setbacks

Front	65'
Side	5'
Rear	5'
Marsh Creek Rd.	30'
Separation to principal building	5' min. average and 4' min., provided all applicable Building Codes Standards are complied with.

Accessory Structure Building Height

1 story, 16' max.

Other Standards

For other development standards or exceptions not listed or specified herein please refer to either the Marsh Creek Rd. Specific Plan or Zoning Code, whichever is deemed most applicable.

CEQA

Pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3) it can be seen with certainty that there is no possibility that the text for this Development Plan permit may have a significant effect on the environment, and therefore it is not subject to CEQA.

RECOMMENDATION

Staff recommends the Planning Commission consider all information provided and submitted, take and consider all public testimony and, if determined to be appropriate, adopt Resolution No. 04-13, recommending City Council approval of Development Plan Permit (DP-01-13) to establish Planned Development (PD) Zoning District standards for five (5) existing developed residential properties located on a private driveway off of Marsh Creek Road. The PD standards will establish building setback and building height standards for the principal building and accessory structures, where none currently exist. The specific property addresses include 8106, 8114, 8118, 8130 & 8140 Marsh Creek Road, with corresponding Assessor Parcel Numbers (APN's) of 078-020-041, 042, 045, 046 & 040.

ATTACHMENTS

1. Planning Commission Approval Resolution No. 04-13, with attached Exhibits:
Exhibit A – Mazzei – Planned Development Standards for DP-01-13
Exhibit B – Mazzei – Planned Development Boundary Diagram for DP-01-13
2. Vicinity Map
3. Citywide PD Development Standards Table
4. June 25, 2013, Planning Commission Staff (without attachments)

X:\Com Dev\DP-01-13 - Mazzei PD\PCR - Mazzei - PD Standards - DP-01-13 for 7-23-13 mtg.docx

**CITY OF CLAYTON
PLANNING COMMISSION
RESOLUTION NO. 04-13**

**RECOMMENDING CITY COUNCIL APPROVAL OF
A DEVELOPMENT PLAN PERMIT TO ESTABLISH
PLANNED DEVELOPMENT (PD) ZONING DISTRICT
STANDARDS FOR FIVE EXISTING DEVELOPMENT
RESIDENTIAL PROPERTIES LOCATED OFF OF
MARSH CREEK ROAD
MAZZEI PLANNED DEVELOPMENT
(DP-01-13)**

WHEREAS, the City of Clayton Planning Commission held a duly noticed public hearing at a regular meeting on July 23, 2013 to review and consider a Development Plan Permit to establish Planned Development (PD) Zoning District standards for five (5) existing developed residential properties located on a private driveway off of Marsh Creek Road. The PD standards will establish building setback and building height standards for the principal building and accessory structures, where none currently exist. The specific property addresses include 8106, 8114, 8118, 8130 & 8140 Marsh Creek Road, with corresponding Assessor Parcel Numbers (APN's) of 078-020-041, 042, 045, 046 & 040; and

WHEREAS, pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3) it can be seen with certainty that there is no possibility that this zoning amendment to the Clayton Zoning Ordinance/Municipal Code may have a significant effect on the environment, and therefore it is not subject to CEQA.

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, the Planning Commission has reviewed all written evidence and oral testimony presented to date; and

NOW, THEREFORE, BE IT RESOLVED, that the Clayton Planning Commission does hereby find the subject Development Plan Permit to establish Planned Development (PD) Zoning District standards is meets the following findings as they apply to this project:

- a. That the application of the Development Plan Permit to establish Planned Development (PD) Zoning District standards as proposed will result in a significantly better quality development than would occur with a non-flexible zone.
- b. The application is consistent with the General Plan goals and policies the land use designation of Single Family Low-Density Residential (LD) for the site.
- c. The general intent of standards of review in Section 17.28.160 of the Zoning Ordinance do not apply as the project site is already development with single family homes and these PD

RESOLUTION NO. 04-2013

Page 2

standards will establish building setback and building height standards for the principal building additions/expansions and accessory structures, where none currently exist.

- d. The application will result in a maintaining this existing high quality development than would occur with a traditional residential zoning district.
- e. The application will be compatible and in harmony with the surrounding neighborhood and the Town Center, as well as the City as a whole.
- f. The application will not result in any significant effects on the environment as pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3) it can be seen with certainty that there is no possibility that the text for this Development Plan permit may have a significant effect on the environment, and therefore it is not subject to CEQA.
- g. The requirement to start construction within 18 months of City approval does not apply as the project site is already development with single family homes and these PD standards will establish building setback and building height standards for the principal building additions/expansions and accessory structures, where none currently exist.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Clayton based on substantial evidence in the administrative record of proceedings and pursuant to its independent review and consideration, does hereby recommend City Council approval an a Development Plan Permit to establish Planned Development (PD) Zoning District standards for five (5) existing developed residential properties located on a private driveway off of Marsh Creek Road.

PASSED AND ADOPTED by the Planning Commission of the City of Clayton at a Regular meeting on the 23rd day of July, 2013.

APPROVED:

ATTEST:

Keith Haydon
Chair

Charlie Mullen
Community Development Director

ATTACHMENTS:

Exhibit A – Mazzei – Planned Development Standards for DP-01-13

Exhibit B – Mazzei – Planned Development Boundary Diagram for DP-01-13

EXHIBIT A

Mazzei – Planned Development Standards

Principal Building Setbacks

Front	20', 15' for side-loaded garages
Interior Side	10', 25' aggregate
Rear	25'
Marsh Creek Rd.	80'

Principal Building Height

2 ½ stories, 35' max.

Accessory Structure Setbacks

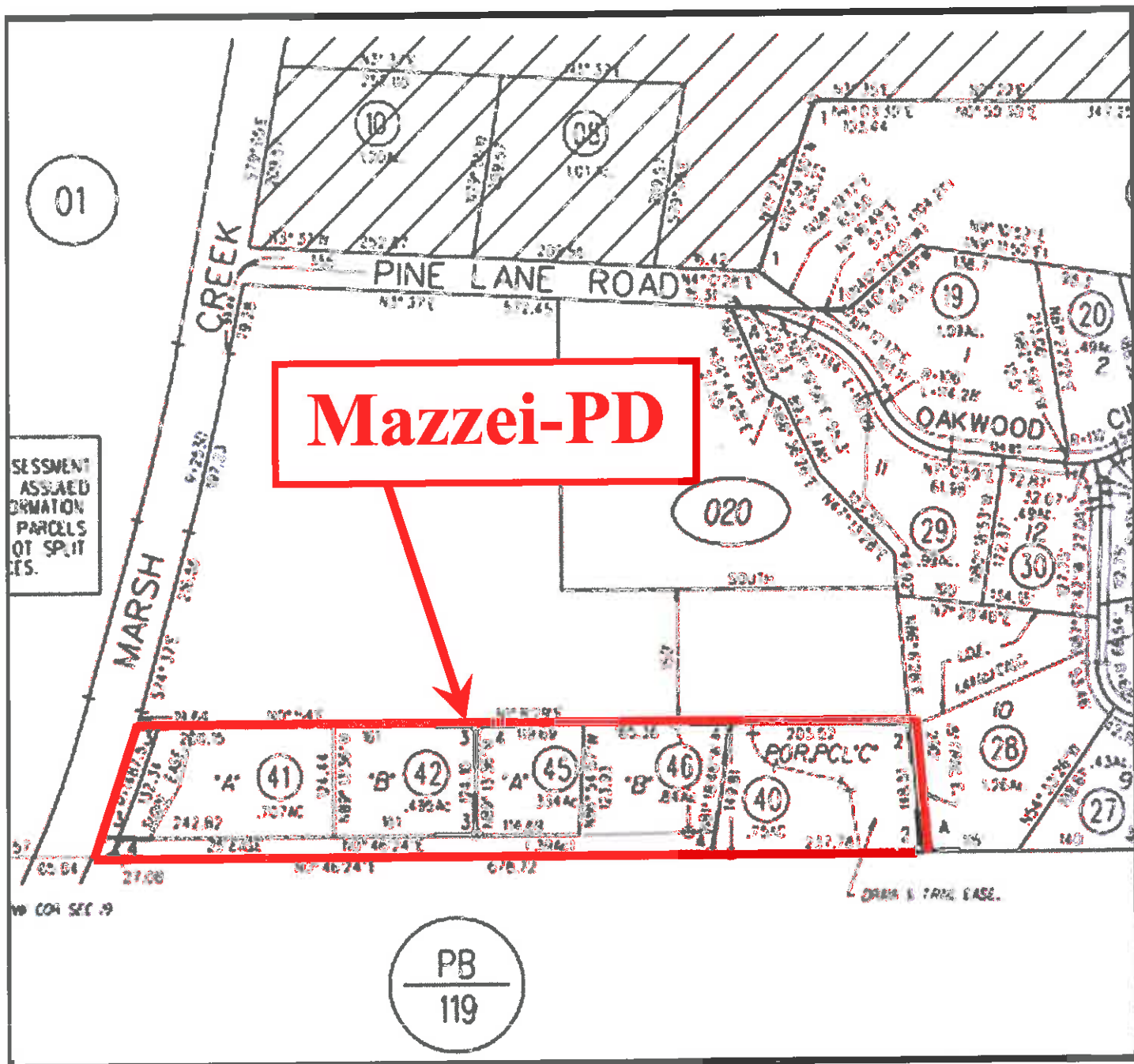
Front	65'
Side	5'
Rear	5'
Marsh Creek Rd.	30'
Separation to principal building	5' min. average and 4' min., provided all applicable Building Codes Standards are complied with.

Accessory Structure Building Height

1 story, 16' max.

Other Standards

For other development standards or exceptions not listed or specified herein please refer to either the Marsh Creek Rd. Specific Plan or Zoning Code, whichever is deemed most applicable.



**PLANNED DEVELOPMENT
BOUNDARY MAP**

	Mazzei – Planned Development DP-01-13 8106, 8114, 8118, 8130 & 8140 Marsh Creek Road APN's: 078-020-041, 042, 045, 046 & 040.	N  (Not to Scale)
---	---	--



VICINITY MAP



**Mazzei – Planned Development
DP-01-13**
8106, 8114, 8118, 8130 &
8140 Marsh Creek Road
APN's: 078-020-041, 042, 045, 046 & 040.



PLANNED DEVELOPMENT (PD) STANDARDS

DEVELOPMENT	SETBACKS					BUILDING HEIGHT		OTHER STANDARDS	
	FRONT	INTERIOR SIDE ₂	EXTERIOR SIDE ₃	REAR ₄	REAR YARD Useable area	ACCESSORY STRUCTURE	PRINCIPAL BUILDING		ACCESSORY STRUCTURE
Peacock Creek	20'	7.5*	15'	15'	1500 sf	5' if structure is separated from residence by at least 10'	35'	16'	See Design Criteria (approved 9/10/91) for add'l info See Oakhurst Fencing Std's folder for fencing rqrmts Driveways - 20' min length * Side setbacks are 5'/12.5' aggregate for following lots (per Development Plan) 118-480-012 118-490-004 118-510-016 " -029 " -021 " -046 " -039 " -047
Chaparral Springs		10' single story; 20' 2-story ₁		15'		3' from all P/L ₂	2½ stories 35' max.	1 story 16' max.	See Oakhurst Fencing Std's folder for fencing rqrmts
Black Diamond	Opposing 35' agg., 15'min.	15' agg., 5' min., 1	15' on street side	15'		3' from all P/L ₂	2½ stories 35' max.	1 story 16' max.	See Oakhurst Fencing Std's folder for fencing rqrmts
Windmill Canyon	Opposing 35' agg., 15'min.	15' agg., 5' min., flat ₁	15' on street side	15'	1000 sf	3' from all P/L ₂ *	2½ stories 35' max.	1 story 16' max.	See Oakhurst Fencing Std's folder for fencing rqrmts * 3' setbacks for accessory structures approved by P/C (Files 425-90 & 414-90).
Ironwood Falcon Ridge	Opposing 35' agg., 15'min.	15' agg., 5' min., flat ₁	15' on street side	15'	1000 sf	5' from all P/L ₂	2½ stories 35' max.	1 story 16' max.	See Oakhurst Fencing Std's folder for fencing rqrmts
Eagle Peak	Opposing 35' agg., 15'min.	15' agg., 5' min., flat ₁	15' on street side	15'	1125 sf * 1200 sf **	5' from all P/L ₂	2½ stories 35' max.	1 story 16' max.	See Oakhurst Fencing Std's folder for fencing rqrmts * 75' wide lot ** 80' wide lot
Oak Hollow	15'	5'	15'	15' flat*					* Minimum 10' flat area at one corner.
Diablo Ridge	20*	5'		15'; 10' golf course ₁					* 19' for Buildings F-2, F-13, F-15.
Oakwood Circle	20'	35' agg., 10' min.		15'			2½ stories 35' max.		
Regency Woods	20'	15' agg., 5' min., *	15' bldg., 5' fence	20'					Original fence is minimum 5' from corner. No fencing in front setback. 35% lot coverage (as tempered by GP requirements) * Regency I Subdivn 4343; 5' min. side setbacks

DEVELOPMENT	SETBACKS						BUILDING HEIGHT		OTHER STANDARDS
	FRONT	INTERIOR SIDE ₂	EXTERIOR SIDE ₃	REAR ₄	REAR YARD Useable area	ACCESSORY STRUCTURE	PRINCIPAL BUILDING	ACCESSORY STRUCTURE	
Westwood	20' - 2 story 15' - 1 story	10' on one side, 8' otherwise*		15'			2½ stories 35' max. **		* Minimum side setback per lot shall avg. 10' when the dwelling is placed on the opposite property line (0 side setback) & 8' otherwise. ** Lots 1,4,5,6,7,8,9 one story max. Lots 56-64 must be reviewed for 2 story.
Clayton Green (Use R-12)	20'	25' agg. 10' min.	20'	15'			2½ stories 35' max.	1 story 16' max.	
Silver Creek II	20*	15' agg. 5' min.	15' street side 5' min /20'agg	20' regular lot 15' cul-de-sac**			2½ stories 35' max.	1 story 16' max.	Building coverage 35% * No fencing in front yard. ** 10' fencing setback on corner
Stranahan - West NE SE Center	20'	4' *		20'			23'6"		* 8' min between residences Trellis & patio covers - 10' from rear P/L and no wider than residence (Staff interpretation since construction)
		3' *		15'					
		3' *		20'					
		3' *		22'					
Greystone	20' front garage 15' side garage	15' agg. 5' min.		15'					Lots 1-8 no grading or earthwork on slopes.
Hays (File 52-76-108)	25'	35' agg. 15' min.	20'	15'		Side: 3' (if 65' from front P/L) Rear: 3'	2½ stories 35' max.		Slds per 11/18/76 application submittal.
Hollinger (File 1257-02)	20'	15' agg. 5' min.	-	15'			2½ stories 35' max.	1 story 16' max.	30% lot coverage 8,712 sf min lot size
Diablo Village	20' front garage 15' side garage	10' agg. 5' min*	5'*	10'*	-	-	-	-	*Chimneys shall maintain a 5-foot setback from side and rear property lines.
Dana Ridge	CC&R's prohibit any structural changes. Two trellis designs are specified in CC&R's.								
Marsh Creek Villas	CC&R's prohibit any structural changes.								
Brinwood I	Standards were not established as part of project approval (File 52-72-44). R-40 standards have been used for lots with wide frontages.								

* See "OTHER STANDARDS" column

Notes
1 A minimum 5' flat area, clear of all obstructions is required in the side setback, unless otherwise noted.

2 Accessory structures can be 1' from P/L of any common walls. Gazebos must be 5' from P/L.

3 Pools/spas: 5' from side & rear P/L, 10' from corner street side. Equipment must be 10' from any neighboring dwelling.

**CITY OF CLAYTON
PLANNING COMMISSION
STAFF REPORT**

Meeting Date: June 25, 2013

From: Charlie Mullen
Community Development Director 

Subject: Public Hearing to Consider a Request to Amend the Marsh Creek Road Specific Plan in Order to Establish Residential Accessory Structure Standards (SPA-01-13).

REQUEST

The applicant, Matt Mazzei is requesting the City to consider amending the Marsh Creek Road Specific Plan in order to establish residential accessory structure standards where currently no regulations/standards exist.

PROJECT INFORMATION

Applicant/Location: Matt Mazzei
8130 Marsh Creek Road
APN: 078-020-046

General Plan Designation: Low Density Residential

Zoning Classification: Planned Development

Specific Plan Designation: Marsh Creek Road Specific Plan

Public Notice: On June 14, 2013, a public hearing notice was advertised in the Contra Costa Times and notice was mailed to property owners within 300 feet of the site and posted at designated locations.

BACKGROUND

A complaint was filed with the Community Development Department on July 19, 2012 regarding possible construction activity at 8130 Marsh Creek Road. Upon investigation of the complaint by City staff, it was determined that the construction activity involved the unauthorized construction of an approximately 500 s.f. accessory structure addition onto a previously existing approximately 120 s.f. accessory structure located in the rear yard of the property behind the primary residence. The applicant indicates the use of the accessory structure is proposed for

personal storage. The accessory structure is almost completely constructed, with the exception of the decorative exterior siding, paint, and roof material to match the primary residence (see attached photos).

Upon researching City files and records it was confirmed that no City permits had been obtained and the Contra Costa County Building Services also confirmed that no Building Permits had been issued for the new accessory structure.

With regard to the previously existing 120 s.f. accessory structure, that structure was considered legal non-conforming, because it was constructed prior to and met all applicable Zoning standards prior to the small accessory building code amendments of 2007 (Ord. No. 406). An approved Tentative Parcel Map (File 1191-02) confirms that the previous 120 s.f. accessory structure existed as of October 2002. The applicant does not recall the exact date of construction.

DISCUSSION

On April 5, 2013, the applicant submitted an application to amend the Marsh Creek Road Specific Plan (MCRSP) with the intent to establish residential accessory structure standards, where currently no regulations/standards exist. However, the applicant's application did not include, recommend, or propose any specific wording or text that would be added to the MCRSP. Due to the new Community Development Director coming on board with the City at the end of April 2013, the applicant cooperatively agreed to allow the new Director time to research and get brought up to speed on the subject application and issues.

Upon conducting field inspections of the property and accessory structure, it has been determined that accessory structure does not meet the current applicable Zoning Code standards for accessory structures. Due to the absence of accessory structure standards in the MCRSP and the absence of any Planned Development standards for this property, the standards of the Zoning Code are then applied. The Zoning Code offers two alternative standards for accessory structures of this size (see attached Code Section 17.36.055).

One of the Code standards requires accessory structures to be separated from the main building by at least 12 feet (including roof overhangs). If this 12-foot separation can be provided then the accessory structure can be setback a minimum of 5 feet from the side and rear property lines. The subject "L" shape accessory structure does not meet the 12-foot separation standard (see attached Site Plan Diagram). It has a corner pinch-point separation of approximately 4 feet (wall to wall) and only provides a 7'6" separation along the front north side and a 5-foot separation along the west side. The accessory structure side yard setback of 16'10" and the rear setback of 6'6" exceed the minimum 5-foot setback requirements.

Alternatively, the second Code standard allows accessory structures of this size to provide a minimum 5-foot separation from the main building (including roof overhangs). In this situation the accessory structure must then meet the minimum side and rear setbacks of the main building. The MCRSP requires a minimum 25-foot rear setback and a minimum 10-foot side setback. The subject accessory structure does not meet these standards.

Upon reviewing the MCRSP, the Zoning Code standards for accessory structures and Planned Development (PD) standards for similar zoned PD projects; staff believes several different options may be available for the Planning Commission to consider. These options are discussed below.

Option 1 – Amend Marsh Creek Road Specific Plan

As currently applied for by the applicant, an option would be to amend the MCRSP that was first adopted in 1995 and later amended in 2005. Upon reviewing the MCRSP in detail, staff has confirmed that, while the MCRSP does provide development standards and direction for primary/main residential structures (see attached excerpt), the MCRSP is silent on development standards for residential accessory structures. It is staff's professional experience that the absence of residential accessory structure standards in a Specific Plan is not entirely uncommon, particularly in Specific Plans that are nearly 20 years old.

A potential downside of amending the MCRSP to add specific accessory structure standards is that the standards would then apply throughout the entire Plan area and this may not be desirable, given the varying topography, varying uses, and varying development goals that exist in the Plan area. While it would certainly be possible to amend the MCRSP to include residential accessory structure standards, it is staff's opinion that another more desirable and preferred option is available to consider, if so desired.

Option 2 – Amend Zoning Code

A second available option would be to consider amending the Zoning Code, Accessory Buildings and Structures standards (Section 17.36.055). However, staff understands that a significant amount of community discussion and effort was spent on developing the current standards and it may not be desirable to modify these standards on a citywide basis. Similar to the discussion above in Option 1, a potential downside of amending the Zoning Code accessory structure standards is that such standards would apply throughout the entire City and this may not be desirable, given the varying zoning designations and varying development goals. Again, while it would certainly be possible to also amend the Zoning Code standards, it is staff's opinion that another more desirable and preferred option is available to consider, if so desired.

Option 3 – Create Planned Development Standards

A third option would be to create specific set of accessory structure standards under a Planned Development (PD). Many of the approved residential PD's in Clayton also included standards for specific accessory structures that are unique and tailored to the individual PD (see attached PD Summary Standards Table). In the case of the subject property, it is part of a 5-lot subdivision (originally 4 lots) that was created under the County. All the lots have one commonly shared private driveway access off of Marsh Creek Road. In 1990, when the adjacent Oakwood Subdivision Planned Development was annexed, these lots were included in the larger Oakwood annexation and were given a PD zoning designation at that time. However, because the lots already existed the City did not require a PD Development Plan permit for them.

Because many of the City PD's include standards for accessory structures in addition to standards for primary residences, if the Planning Commission so desires, Option 3 may be the preferred option to establish PD standards that would be specific and unique to these 5 lots. This

process would generally be consistent with the intent established behind our other existing PD's and could potentially allow for the creation of accessory structure standards that take into consideration the unique features and circumstances that exist at this specific location.

Staff believes Option 3 may be the preferred option as it would allow flexibility to establish standards for accessory structures that could be unique to these 5 lots, if so desired.

Option 4 – Make No Changes to Any Existing Plans, Codes, or Standards.

Lastly, the Planning Commission may feel that it is not desirable to make any changes or amendments to the MCRSP or Zoning Code or to create specific PD standards for accessory structures.

RECOMMENDATION

Staff recommends that the Planning Commission consider all information provided and submitted, take and consider all public testimony, and, if determined to be appropriate provide input and/or direction to staff on a possible preferred Option to consider at a follow-up meeting. Staff could then coordinate the appropriate application with the applicant (if necessary), bring back specific information or text wording, and/or bring back an accompanying resolution consistent with the identified preferred Option at a future specified Planning Commission meeting.

It should be noted that staff is not requesting the Planning Commission to take an action at this meeting; staff is only seeking input and direction from the Commission on this matter.

ATTACHMENTS

- 1 Vicinity Map
- 2 Site Plan Diagram for 8130 Marsh Creek Rd.
- 3 Photographs of Accessory Structure at 8130 Marsh Creek Rd.
- 4 Marsh Creek Road Specific Plan (excerpt page 57)
- 5 Zoning Code Section 17.36.055, Accessory Buildings and Structures
- 6 PD Summary Standards Table

X:\Com Dev\SP\2013\Mazzei - SPA-01-13\PCR - Mazzei Marsh Creek Road Specific Plan Amendment - SPA-01-13 for 6-25-13 mtg.doc