

Minutes
Clayton Planning Commission Meeting
Tuesday, August 27, 2013

1. CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

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

Present: Chair Gregg Manning
Commissioner David Bruzzone
Commissioner Keith Haydon
Commissioner Sandra Johnson

Absent: Vice Chair Dan Richardson (excused)

Staff: Community Development Director Charlie Mullen
Assistant Planner Milan J. Sikela, Jr.

2. ADMINISTRATIVE

2.a. Review of agenda items. No Changes.

2.b. Declaration of Conflict of Interest. None.

2.c. Planning Commissioner Sandra Johnson to report at the City Council meeting of September 17, 2013 (alternate: Commissioner Keith Haydon).

3. PUBLIC COMMENT

3.a. None.

4. MINUTES

4.a. Approval of the minutes for the July 23, 2013 regular meeting.

Commissioner Haydon moved and Commissioner Bruzzone seconded a motion to approve the minutes, as submitted. The motion passed 3-0-1-1 (Commissioner Johnson abstained and Vice Chair Richardson was an excused absence).

5. PUBLIC HEARINGS

5.a. **SPR-04-13, Site Plan Review Permit, Andres Gonzalez, 944 Douglas Court, APN: 119-560-007.** Public Hearing to consider a Site Plan Review Permit request to construct a detached accessory pool house/recreation structure measuring approximately 714 square feet in area and 13 feet, 6 inches in height.

Assistant Planner Sikela presented the staff report.

The public hearing was opened.

Chair Manning asked if gutters were going to be installed on the subject structure. The applicant, Andres Gonzalez, responded yes, gutters would be installed.

Commissioner Johnson requested general clarification on the floor plan of the subject structure, specifically asking how the bathroom relates to the other areas in the structure. Assistant Planner Sikela explained that the main interior area of the subject structure would be open and unwall on the west (front) and north (left side) elevations, similar to a cabana. The main interior area is proposed to contain a bar and kitchenette. The bathroom is proposed without a shower and would be located outside of and not have a direct doorway connection to the main interior area. No bedroom is proposed in the subject structure.

Commissioner Bruzzone asked about the second dwelling unit concerns raised by staff. Director Mullen explained that, although the current property owner has indicated that the subject structure will not be used as a second dwelling unit, future owners of the property may not be aware of the requirements and approval process for second dwelling units. As a result, staff has provided conditions that preclude the subject structure from being converted into a second dwelling unit unless properly permitted.

Commissioner Haydon indicated that the subject structure has been well designed and should not be visible to neighbors.

The public hearing was closed.

Commissioner Haydon moved and Commissioner Johnson seconded a motion to approve Site Plan Review Permit SPR-04-13, with the findings of approval and conditions of approval recommended by staff. The motion passed 4-0-1 (Vice Chair Richardson was an excused absence).

- 5.b. **ZOA-03-13, Municipal Code Amendment, City of Clayton.** Public Hearing to consider a City-initiated Ordinance to Amend the Clayton Municipal Code Title 17, Establishing Regulations for Cottage Food Operations.

Assistant Planner Sikela presented the staff report.

Commissioner Haydon had the following comments and questions:

- Since there is a definition for the term “cottage food operation” provided in the draft Ordinance, a definition for the term “cottage food” should also be included to provide an intuitive connection between the two terms.
- Is there a maximum limit on the number of family members that are allowed to be involved in the cottage food operation? Assistant Planner Sikela responded no, there is no limit on the number of family members that can be involved.
- It appears as if it up to the applicant to self-enforce their own cottage food operation in accordance with Assembly Bill 1616 and the California Health and Safety Code. Director Mullen indicated that to some extent that was correct.

Commissioner Bruzzone had the following comments and questions:

- Asked if we should remove the term “full time” from the definition of “cottage food operation” so that it will not appear that we are regulating whether or not the one allowed employee will be part time or full time. We are only specifying the maximum number of employees, not the number of hours the employee works at the cottage food operation. Director Mullen indicated that could be better clarified.

Chair Manning had the following comments and questions:

- What constitutes a “small child” as it is used in the draft Ordinance? Director Mullen responded that the draft Ordinance was crafted to conform with State

requirements while allowing the wording to be flexible enough to remain consistent as future modifications that may be made by the State to the cottage food operation regulations in the Health and Safety Code. As a result, no definition is provided for “small child.” However, as home occupation requests for cottage food operations are submitted to the City in the future, we would require the applicant to provide information about household size, number of people involved in the operation, hours and days of operations, type of food being produced, etc. in order to get a better understanding of what is proposed and to provide conditions, as needed, to ensure the highest level of compliance with State regulations. The intent of this State mandate is to encourage cottage food operations and not prohibit them. From staff’s perspective, these types of operations would survive by the product it produces, which would assist in the self-enforcing aspect of the operation.

- Who decides what type of foods can be produced by a cottage food operation and who do we petition to initiate changes to the foods that are allowed to be produced? Assistant Planner Sikela responded that the State Public Health Officer has the authority to decide what types of foods can be produced by a cottage food operation and can change the types of foods allowed to be produced.
- Does the County Environmental Health Department have a form that cottage food operation applicants fill out? Assistant Planner Sikela responded that for City approved cottage food operations the County will then provide approval documentation and a registration number. As part of the Planning Commission review of a home occupation permit request for a cottage food operation, staff will include a condition that requires the applicant to provide this approval documentation and registration number to the City prior to commencing the cottage food operation.
- How are issues related to enforcement addressed? Assistant Planner Sikela responded that City staff, including the Code Enforcement Officer, would work with the County Environmental Health Department to address complaints and/or violations committed by a cottage food operation.

Commissioner Johnson had the following comments and questions:

- Will the cottage food operation be required to get a City business license? Assistant Planner Sikela explained yes and that a condition would be included in the Home Occupation Permit requiring the applicant to obtain a business license prior to commencing the cottage food operation, which is standard procedure for the permitting of all home occupation permits.
- We want to make sure that preparation of food is conducted in a manner allowed by the Health and Safety Code.
- I do not see a cottage food operation as being any different than a normal food-preparing business in terms of cleanliness, safety, and licensing.

The public hearing was opened. There were no public comments. The public hearing was closed.

By consensus, the Planning Commission directed staff to amend the draft Ordinance based on Commission input, return with a revised draft, and continued the public hearing for Municipal Code Amendment ZOA-03-13 to the regular meeting on September 10, 2013.

- 5.c. **ZOA-04-13, Municipal Code Amendment, City of Clayton.** Public Hearing to Consider a City-initiated Ordinance to Amend the Clayton Municipal Code Title 17, Establishing Regulations for Emergency Shelters.

Director Mullen presented the staff report.

Commissioner Bruzzone had the following comment and question:

- By designating the Keller property as the most suitable emergency shelter site, would it preclude other City projects from being proposed at the same site in the future? Director Mullen responded that no, this designation would not preclude other City projects from being proposed at the Keller property site in the future.
- Is my understanding correct in that we are not promoting emergency shelter uses at the Keller property but, rather, merely listing the site as the best location for a potential emergency shelter? Director Mullen responded that was correct. The City is not soliciting the site for emergency shelter purposes but, instead, would only be designating the site as a possible location for such a use. If the City was approached by a prospective applicant the City would have a better discretionary ability to control the development and operation if the potential shelter site is located on City property.

Commissioner Johnson had the following comment and questions:

- It is good to designate the Keller property for emergency shelter uses since a potential applicant would not have to pursue other locations within the City as these other locations might be located closer to residential areas.
- How did you arrive at ten as the maximum number of people allowed to be served nightly in beds within the shelter? Director Mullen indicated that, as he researched other jurisdictions' emergency shelter standards, he tried to strike a balance between serving a feasible number of people while avoiding overcrowding and found the number ten to be the least number of people served nightly in beds within the shelters ordinances that staff researched.
- Can the City deny a potential applicant proposing to construct an emergency shelter? Director Mullen responded that yes, the City has the right to deny an application. The City is not obligated to accept an application for an emergency shelter just because it is an emergency shelter proposal.

Commissioner Haydon inquired is the City is just showing a good faith effort toward establishing a location within Clayton for emergency shelters rather than actually being required to produce this type of facility? Director Mullen indicated that was correct. The proposed amendment entail satisfying an Implementation Measure in the Housing Element and State law.

Chair Manning had the following questions and comments:

- Is a site that is designated for emergency shelter purposes required to be City-owned property? Director Mullen indicated that no, a site designated for emergency shelter purposes does not have to be City-owned property. However, after discussing the issue with the City Manager and City Attorney, it was seen as the best choice since locating a shelter on City-owned property would allow the City to have greater control over the shelter.
- Instead of including the Keller House for emergency shelter purposes, could we place another building on the Keller property that could be used, thereby avoiding impacts to the Keller House. Director Mullen responded yes.
- Although the two churches that are located in Clayton do not contain homeless or emergency shelter facilities, there are twenty churches outside of Clayton in neighboring cities that do provide services in the winter for homeless citizens.

The public hearing was opened. There were no public comments. The public hearing was closed.

Commissioner Haydon moved and Commissioner Johnson seconded a motion to adopt Resolution No. 06-13 recommending City Council approval of an Ordinance amending the Clayton Municipal Code Title 17, establishing regulations for emergency shelters, and specifically establishing emergency shelters as a permitted use in the Public Facilities (PF) Zoning District, establishing an emergency shelters definition and establishing development and managements standards for emergency shelters. The motion passed 4-0-1 (Vice Chair Richardson was an excused absence).

6. **OLD BUSINESS**

None.

7. **NEW BUSINESS**

- 7.a. **GPA-03-13, Capital Improvement Program (CIP) Conformity with General Plan, City of Clayton.** Review of City of Clayton CIP projects proposed to be undertaken in the coming fiscal year (FY 2013 – 2014) for conformity with the General Plan.

Director Mullen presented the staff report.

Commissioner Bruzzone indicated that, regarding Project 10433 (DVMS Safety Signing), it appears that we are setting aside \$40,000 for budgeting of this capital improvement. Director Mullen indicated that the flashing beacons, signs, and radar speed readouts are pre-made units so the capital improvement will involve installation only.

Commissioner Johnson moved and Commissioner Haydon seconded a motion to find the City's CIP projects for the 2013-2014 fiscal year are in conformity to the Clayton General Plan. The motion passed 4-0-1 (Vice Chair Richardson was an excused absence)..

8. **COMMUNICATIONS**

- 8.a. Staff.

Director Mullen provided updates on Silver Oak Estates, Skipolini's Bocce Ball Courts, and anticipated items on the September 10, 2013 Planning Commission agenda.

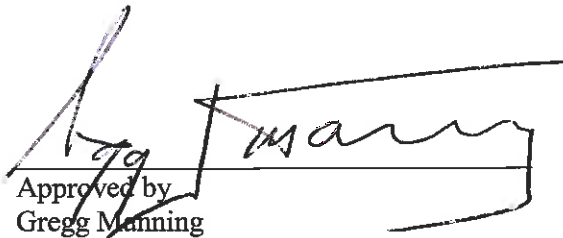
- 8.b. Commission.

None.

9. **ADJOURNMENT**

- 9a. The meeting was adjourned at 8:25 p.m. to the next regularly-scheduled meeting of the Planning Commission on Tuesday, September 10, 2013 at 7:00 p.m.


Submitted by
Charlie Mullen
Community Development Director


Approved by
Gregg Manning
Chair

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