

Minutes
Clayton Planning Commission Meeting
Tuesday, January 27, 2015

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, California.

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

Absent: None

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

2. ADMINISTRATIVE

2.a. Review of agenda items.

2.b. Declaration of Conflict of Interest.

Vice Chair Bruzzone declared a conflict of interest on Agenda Item 5.a.

2.c. Commissioner Gregg Manning to report at the City Council meeting of February 3, 2015.

3. PUBLIC COMMENT

None.

4. MINUTES

4.a. Approval of the minutes for the December 9, 2014 regular meeting.

Commissioner Manning moved and Vice Chair Bruzzone seconded a motion to approve the minutes, with a minor amendment. The motion passed 4-0.

5. PUBLIC HEARINGS

5.a. **HOP-01-15, Home Occupation Permit, Cindy Jakel-Smith, 707 Bloching Circle (APN: 119-464-002).** A request for consideration of a Home Occupation Permit to allow a cottage food operation for baked goods (cakes for weddings and other special occasions, cupcakes, brownies, cookies, coffee cakes, scones, muffins, breakfast bars, and granola) to be conducted from a single-family residence. Pursuant to California Environmental Quality Act (CEQA) Guideline 15301, the project is categorically exempt per CEQA.

Vice Chair Bruzzone recused himself due to a proximity conflict of interest related to this public hearing item and departed the meeting chambers.

The public hearing was opened.

Assistant Planner Sikela presented the staff report and indicated the following:

- Staff has received three letters from property owners in the neighborhood—one letter in opposition to the home occupation permit and two letters in support.
- City Engineer and Police Chief reviewed the home occupation and the letter in opposition and neither had any concerns or comments.

The public testimony period was opened.

Maria Xiaris, 701 Bloching Circle, indicated the following:

- She lives on the corner of Bloching Circle and El Molino Drive, directly adjacent to the applicant's residence.
- She supports the applicant's proposal but, due to the high activity intersection adjacent to her property and the applicant's property, this location is not suitable for her proposed home occupation.
- There are many vehicular roll-through stops at this intersection and u-turns that occur in the street in front of her property.
- Vegetation overgrowth on the northwest corner of Bloching Circle and El Molino Drive may block the view of drivers.
- She has young children that play in the street adjacent to the intersection and the additional traffic generated by the home occupation may pose a threat to her children.
- She understands the home occupation is proposed to generate a maximum of six client visits per week to the applicant's residence but wants to make sure she has some recourse if the home occupation generates more than six clients per week.

Commissioner Manning asked Ms. Xiaris the following questions:

- Has she reported the vehicular roll-through stops to the Clayton Police Department? Ms. Xiaris responded "Yes."
- What did the Police Department do? Ms. Xiaris responded that the Police Department parked a patrol car at the intersection.
- Were the roll-through stops occurring on Bloching Circle or El Molino Drive? Ms. Xiaris responded that the roll-through stops were occurring on El Molino Drive.

Tony McDonald, 702 Bloching Circle, indicated the following:

- He supports the applicant's proposal.
- He owns the property with the vegetation on the northwest corner of Bloching Circle and El Molino Drive and he always trims the vegetation back. There is adequate visibility for vehicles at that corner.
- He has two children of his own and has no safety concerns related to traffic generated by the home occupation business.

- He has offered his driveway to the applicant for clients to park their vehicles.
- The roll-through stops occur only on El Molino Drive and not on Bloching Circle.

Commissioner Richardson had the following question and comment:

- Do you use a plastic “slow down” statue in the street to alert drivers? Mr. McDonald indicated that he has three “slow down” statues that he uses.
- There appears to be somewhat of an issue with vehicles traveling at high speed in the area. Mr. McDonald responded that most violations occur traveling northbound on El Molino Drive. The roll-through stops on El Molino Drive are not done with a higher frequency than at any other comparable intersection anywhere else.

The applicant, Cindy Jakel-Smith, indicated the following:

- She has followed vehicles that rolled through the stop sign and have discovered that they are local residents, not outsiders.
- Due to the type of home-based business she is proposing, she can only have one client visit her residence at one time. Therefore, she was anticipating a maximum of six clients visiting per week visiting her residence.
- There are ebbs and flows to the number of clients that would visit the residence since the amount of baking varies with the season. More baking (and, hence, more client visits) would occur around the holidays and the wedding season in June; less baking (and less client visits) would occur other times of the year. That is why she anticipates possibly two to four clients could potentially visit her residence in one day during the busier times of the year.
- With consultations only, a client visit would take two hours. If there is a tasting involved, then the client visit could take up to three hours.
- Regarding concerns over clients turning onto Bloching Circle from El Molino Drive, she said she could encourage her clients to use the southern arm of Bloching Circle and come around the block from the west so that they would not turn directly in front of Ms. Xiaris’ residence.
- As a parent herself, she is very concerned with safety in the neighborhood.

There being no further comments, the public testimony period was closed.

Chair Richardson asked how many clients would be allowed to visit the residence per the Clayton Municipal Code?

Assistant Planner Sikela replied that, in accordance with City standards, a maximum of six clients could visit the residence in one day.

Commissioner Manning indicated that he supports approval of the proposal.

Commissioner Johnson indicated that it appears to be a routine request that she sees no problem with and that the traffic violation issues would be more of a Police Department matter rather than being related to the home-based business.

Chair Richardson indicated the following:

- He sympathized with Ms. Xiariis since he would also be concerned about traffic if he lived in the area.
- He believes it would be beneficial for the applicant to encourage clients to use the southern arm of Bloching Circle and come around the block from the west so that they would not turn directly in front of Ms. Xiariis' residence.
- If any business-related activity occurs that is in violation of this approval, such an increased number of clients or more client visits per day, the Community Development Department may be contacted to commence enforcement procedures.

The public hearing was closed.

Commissioner Manning moved and Commissioner Johnson seconded a motion to approve Home Occupation Permit HOP-01-15, with the conditions of approval recommended by staff. The motion passed 3-0.

Vice Chair Bruzzone returned to the meeting chambers.

- 5.b. **ZOA-01-15, Zoning Ordinance Amendment, City of Clayton.** Review and consideration of a City-initiated Ordinance amending and/or updating various code sections, definitions, regulations and permit procedures of the Clayton Municipal Code, Chapters 5.04, 5.12, 10.36, 17.04, 17.36, 17.60 and 17.70, relating to Mobile Vendors, including mobile food vendors and mobile retail vendors.

The public hearing was opened.

Director Mullen presented the staff report.

Vice Chair Bruzzone asked, during staff research of other cities that have established regulations for mobile food vendors, has there been any problems in these other cities?

Director Mullen responded with the following:

- No city is the same; each city has different circumstances. Some cities have a large mobile food vendor community.
- As we drafted our mobile food vendor ordinance, we wanted to ensure that we are legally defensible against litigation against the City by mobile food vendors.
- The cities that have problems with mobile food vendors are the cities that do not have established standards.

Commissioner Manning indicated that mobile food vendors came into town during construction of the Oakhurst development and he did not remember there being any problems or violations.

Commissioner Johnson indicated that we want to avoid a situation like they have at Stoneridge Mall in Pleasanton where there are a high number of mobile food vendors.

Director Mullen indicated that the discretionary permit process that Clayton would establish would give the City greater control over such a scenario.

Vice Chair Bruzzone asked did the Police Department or City Engineer have any concerns regarding the ordinance?

Director Mullen responded that the Police Chief and City Engineer had no concerns or comments.

Chair Richardson asked regarding 17.36.084.C.20 are refrigerators that drip water an issue?

Director Mullen responded that water from ice melt is allowed but gray water or waste water is not. In addition, there is also a permitting process required by the County, providing more governmental regulatory control over mobile food vendors.

The public testimony period was opened.

Ben Smith, 707 Bloching Circle, indicated the following:

- He supports allowing quality mobile food vendors in Clayton.
- Would be good to have mobile food vendors in the Town Center for such events as Concerts in the Grove.

Cindy Jakel-Smith, 707 Bloching Circle, indicated that mobile food vendors could enhance business in Clayton.

There being no further comments, the public testimony period was closed.

Vice Chair Bruzzone indicated that he thinks it is a good idea to be proactive and establish standards for mobile food vendors. He asked does the City have the authority to restrict mobile food vendor access onto private streets?

Director Mullen responded that the City cannot specifically ban all mobile food vendor access but we can establish reasonable regulations on private or public streets. In addition, the City can enforce, cite, or revoke the permit of any mobile food vendor that is in violation of City regulations.

Commissioner Johnson indicated that she supported approval of the ordinance.

Commissioner Manning indicated that mobile food vendors are self-regulating. If someone gets sick from eating their food, everyone would know about it and would no longer patronize the vendor.

Vice Chair Bruzzone indicated that there are opportunities to do this wisely which would be beneficial for Town Center events, the bocce ball courts, and the City overall.

The Commissioners provided various minor modifications and corrections to the draft ordinance.

Chair Richardson commended staff on the good work done preparing the ordinance and added that well-regulated mobile food vendors would be beneficial to our community.

The public hearing was closed.

Commissioner Johnson moved and Commissioner Manning seconded a motion to adopt Resolution No. 01-15, recommending City Council approval of an Ordinance amending and/or updating various Code sections, definitions, regulations, and permit procedures of the Clayton Municipal Code, Chapters 5.04, 5.12, 10.36, 17.04, 17.60, and 17.70, relating to Mobile Vendors, including mobile food vendors and mobile retail vendors, with minor modifications provided by the Planning Commission. The motion passed 4-0.

6. OLD BUSINESS

None.

7. NEW BUSINESS

None.

8. COMMUNICATIONS

8.a. Staff.

Assistant Planner Sikela informed the Planning Commission that Clayton Fire Station #11 would be holding a re-opening event on Saturday, January 31, 2015 from 11:00 a.m. to 2:00 p.m.

Director Mullen provided updates on the following:

- Staff is processing Parcel Map, Variance, and Tree Removal Permit requests for a property on Verna Way.
- He will be attending a meeting with the environmental consultant regarding the Response to Comments document for the Silver Oak Estates project.
- He and City Manager Gary Napper have a meeting with Transwestern regarding interest in the one-acre City-owned property backing up to Clayton Road in the Town Center.
- St. John's Episcopal Church on Clayton Road held a neighborhood meeting regarding a proposal to subdivide the rear portion of their property into two lots.

8.b. Commission.

Chair Richardson indicated the following:

- Confirmed he will be attending the next TRANSPAC meeting.
- He will also be attending the interviews next Tuesday, February 3, 2015 for candidates for the vacant position on the Planning Commission.

9. ADJOURNMENT

- 9.a. The meeting was adjourned at 8:17 p.m. to the regularly-scheduled meeting of the Planning Commission on February 10, 2015.



Submitted by
Charlie Mullen
Community Development Director



Approved by
Dan Richardson
Chair

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