

Minutes
Clayton Planning Commission Meeting
Tuesday, April 10, 2012

Call to Order

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

Present: Chair Dan Richardson, Vice Chair Keith Haydon, Commissioner Sandra Johnson, and Commissioner Gregg Manning

Absent: Commissioner Bob Armstrong

Staff: Community Development Director David Woltering
Assistant Planner Milan Sikela, Jr.

Administrative

1A. Review of agenda items.

1B. Vice Chair Haydon is to report at the City Council meeting on April 17, 2012.

Public Comment

Chris Benham, 5517 Pamplona Court, indicated the following:

- He is a restaurateur who was involved with a restaurant in Danville.
- Lives in Concord close to the Clayton border and his children attend Diablo View Middle School in Clayton.
- He is interested in teaching people about the importance of sustainable food and healthier restaurants.
- He has many years of experience in the restaurant and vintner business and would like to open a sustainable food restaurant in Clayton.
- He asked the Commission for guidance on how to open such a business in Clayton.

The Commission expressed strong interest in Mr. Benham's proposal and indicated that the City contracted for a market study in recent years that found a significant locally unfilled need for restaurants in Clayton. The Commissioners suggested that he speak with the Community Development Director who could provide contact information for property owners and property managers who may know of opportunities to start a new restaurant in Clayton. (Subsequently, Community Development Director Woltering did contact Mr. Benham and provided him with several contacts to further explore his interest in bringing a restaurant to Clayton).

Approval of Minutes

2. Approval of minutes from the meeting of March 13, 2012.

Commissioner Manning moved and Commissioner Johnson seconded a motion to approve the minutes, as submitted. The motion passed 3-1 (Commissioner Haydon abstained since he did not attend the March 13, 2012 Planning Commission meeting).

Public Hearing

3. **ZOA 01-12, Reasonable Accommodations Ordinance, City of Clayton.** Consideration of proposed Ordinance No. 439 that would add Chapter 15.90 to the Clayton Municipal Code which establishes a process for individuals with disabilities seeking equal access to housing to request reasonable accommodations in the application of the City's land use, zoning, or building standards, regulations, policies, and procedures, and to establish relevant criteria for the City to use when considering such requests.

Director Woltering presented the staff report. During his presentation, he described the various proposed Chapter 15.90 sections pertaining to applicability, definitions, application process, review authority, review procedure, State-allowed conditions of approval, findings, decision, and appeal process, as well as highlighting the following:

- As part of the adopted Housing Element, the City needs to establish a reasonable accommodations ordinance.
- The City needs to establish reasonable accommodations as a ministerial request.
- If a reasonable accommodations request is submitted concurrently with a companion entitlement request such as a site plan review permit, use permit, home occupation permit, then the reasonable accommodation would be handled with the related entitlement review process.
- If a reasonable accommodation request is submitted individually and not associated with another entitlement request, then the reasonable accommodation request would be reviewed with a decision rendered by the Community Development Director.
- The Director's decision may be appealed to the Planning Commission and, in turn, the City Council.
- If the need for the reasonable accommodation is no longer there, then three outcomes may occur:
 - The structure/land use related to the reasonable accommodation may be removed;
 - If the structure/land use related to the reasonable accommodation is part of the standard operating procedure of the residence, then the structure/land use related to the reasonable accommodation may remain; or
 - If another party moves into the residence and needs the structure/land use related to the reasonable accommodation, then the structure/land use related to the reasonable accommodation may remain.

Vice Chair Haydon asked the following:

- Would it be good in the required application materials to have the applicant address when the reasonable accommodation would be needed and for how long?
- In the draft Ordinance it is indicated there is a 12 month period for vesting a reasonable accommodation; could staff clarify the meaning of that statement?

Director Woltering responded, yes, having the applicant provide information as to when and for how long the reasonable accommodation may be needed would be useful and that staff could add that requirement to the list of application materials in the draft Ordinance. Mr. Woltering also provided clarification regarding the 12-month period for vesting a reasonable accommodation in the draft Ordinance. He stated that once a reasonable accommodation is approved, the

applicant would have 12 months to establish the request. As an example, if approval were granted for a ramp, the applicant would need to obtain a building permit and make substantial progress if not complete the construction of the ramp within the 12-month period from the date of approval or the reasonable accommodation approval would become null and void.

Commissioner Manning asked if Fair Housing Laws are absolutely defined or if there is the opportunity for some interpretation? *Director Woltering responded that the Fair Housing Laws allow the governing jurisdiction some latitude in interpreting applicable local regulations related to the reasonable accommodation.*

Commissioner Manning asked how the staff determined which of the 30 categories of the Housing Element implementation measures were selected to focus on and was staff comfortable with the City making a good faith effort toward addressing the large breadth of implementation measures in the Housing Element?

Director Woltering responded by indicating that, prior to the State-mandated dissolution of the Clayton Redevelopment Agency, staff had identified a scope of work for enacting a number of the implementation measures (i.e., the Housing Element Implementation Project). It was clear this scope of work would require the preparation of an environmental document. Fortunately, the City was able to secure a contract with Raney Planning and Management to prepare the environmental document and assist with other research to move forward for consideration the implementation measures prior to the dissolution of the Redevelopment Agency.

A key concern of the State Department Housing and Community Development (HCD) during the review of the City's Housing Element was the City having enough land designated for high density multi-family residential development to facilitate the construction of more affordable housing in Clayton. Consequently, the initial bundle of implementation measures staff selected related to General Plan and Zoning amendments to facilitate high density multi-family and related housing opportunities. And, given the community had recently needed to handle a reasonable accommodation request without the benefit of an ordinance with related procedures and evaluation criteria, it seemed timely given the familiarity with that subject to move forward with an ordinance addressing that subject. Finally, yes, staff believes these efforts, in terms of the Housing Element Implementation Project and the Reasonable Accommodations Ordinance, clearly demonstrate a good faith effort on the part of the City to implement its Housing Element.

Chair Richardson indicated that he was very happy with the Reasonable Accommodations Ordinance since it provides the City the authority and process needed to address reasonable accommodation issues and gives us a good check-and-balance system.

Vice Chair Haydon moved and Commissioner Manning seconded a motion to adopt Resolution No. 02-12, with amendments to have the applicant indicate when and for how long a reasonable accommodation may be needed as part of the application requirements, which recommends City Council approval of Ordinance No. 441 for ZOA 01-12, Reasonable Accommodations Ordinance. The motion passed 4-0.

Old Business

4. None.

New Business

5. None.

Communications

6A. Staff.

Director Woltering provided status updates on the Diablo Estates at Clayton project, the City's Affordable Housing Program, the Silver Oaks Estates project, and the Safeway project.

6B. Commission – None.

Chair Richardson indicated he visited the Diablo Estates at Clayton subdivision and was pleased with the project.

Adjournment

7. The meeting was adjourned at 7:42 p.m. to the following regularly-scheduled meeting of April 24, 2012.



Submitted by
David Woltering, AICP
Community Development Director



Approved by
Dan Richardson
Chair

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