



## PLANNING COMMISSION AGENDA

### Regular Meeting

7:00 P.M. on Tuesday, March 10, 2020

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

1. **CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG**
2. **ADMINISTRATIVE**
  - 2.a. Review of agenda items.
  - 2.b. Declaration of Conflict of Interest.
  - 2.c. Commissioner Terri Denslow to report at the City Council meeting of March 17, 2020 (alternate Commissioner Bassam Altwal).
3. **PUBLIC COMMENT**
4. **MINUTES**
  - 4.a. Approval of the minutes for the January 14, 2020 Planning Commission meeting.
5. **PUBLIC HEARINGS**
  - 5.a. **HOP-03-20, Home Occupation Permit, Teresa Merani, 5873 Caulfield Drive.** A request for approval of a Home Occupation Permit to allow a home-based business involving photography of babies to be conducted from a single-family residence.  
  
**Staff Recommendation:** Staff recommends the Planning Commission receive and consider the staff report and all information provided and submitted to date, receive and consider all public testimony and, if determined to be appropriate, conditionally approve Home Occupation Permit HOP-03-20.
6. **OLD BUSINESS**

None.

**7. NEW BUSINESS**

None.

**8. COMMUNICATIONS**

8.a. Staff.

8.b. Commission.

**9. ADJOURNMENT**

9.a. The next regular meeting of the Planning Commission is scheduled for **March 24, 2020**.

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.

**Minutes**  
**Clayton Planning Commission Meeting**  
**Tuesday, January 14, 2020**

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

Chair Peter Cloven called the meeting to order at 7:00 p.m. at Hoyer Hall, 6125 Clayton Road, Clayton, California, and welcomed new Planning Commissioner Terri Denslow.

Present:           Chair Peter Cloven  
                      Vice Chair A.J. Chippero  
                      Commissioner Bassam Altwal  
                      Commissioner Terri Denslow  
                      Commissioner Frank Gavidia

Absent:           None

Staff:             Interim Community Development Director Dana Ayers  
                      Assistant Planner Milan Sikela, Jr.  
                      City Engineer Scott Alman

**2. ADMINISTRATIVE**

- 2.a.   Review of agenda items.
- 2.b.   Declaration of Conflict of Interest.
- 2.c.   Chair Peter Cloven to report at the City Council meeting of January 21, 2020.

**3. PUBLIC COMMENT**

Dan Hummer expressed appreciation on the work done by the Planning Commission and City staff related to The Olivia on Marsh Creek project that was reviewed by the Planning Commission at their meetings of November 12, 2019 and December 10, 2019.

**4. MINUTES**

- 4.a.   Approval of the minutes for the December 10, 2019 Planning Commission meeting.

**Commissioner Altwal moved and Commissioner Gavidia seconded a motion to approve the minutes, as amended. The motion passed 5-0.**

## 5. PUBLIC HEARINGS

- 5.a. **ENV-01-08, DP-01-08, MAP-02-09, Development Plan and Vesting Tentative Map Time Extensions, Creekside Terrace Mixed Use Project, City of Clayton, 1005 and 1007 Oak Street, west side of Oak Street between Center Street and High Street (APNs: 119-050-008, 119-050-009, and 119-050-034).** Review and consideration of a one-year extension of the Creekside Terrace Development Plan and Vesting Tentative Map until January 6, 2021. This request is in accordance with Sections 17.28.190 (Development Plan) and 16.06.030 (Subdivision Map) of the Clayton Municipal Code. This public hearing was continued from the December 10, 2019, Planning Commission meeting.

Assistant Planner Sikela presented the staff report.

The Planning Commissioners had the following comments and questions:

- On the corner of High Street and Oak Street there is a sign that says “Private Drive” which would create the impression that the portion of High Street located west of Oak Street would be a private driveway. Assistant Planner Sikela indicated that, although the sign is placed in such a manner as to make it appear that the portion of High Street located west of Oak Street is a private driveway, the extent of High Street west of Oak Street to the eastern terminus of the bridge going over Mitchell Creek is not a private driveway but, actually, is public right-of-way owned by the City.
- How many on-street parking spaces are proposed on the portion of Oak Street in front of the project? Assistant Planner Sikela indicated that seven on-site guest spaces would be provided in front of the garages. Commissioner Altwal indicated that six on-street spaces would be provided on Oak Street.
- Are we sure that the extent of High Street west of Oak Street to the eastern terminus of the bridge going over Mitchell Creek is not a private driveway? Assistant Planner Sikela indicated that he had researched the issue with the City Engineer, Contra Costa County Assessors Office, Contra Costa County Planning Division, and Contra Costa County Mapping and GIS Division, and all confirmed that the extent of High Street west of Oak Street to the eastern terminus of the bridge going over Mitchell Creek is not a private driveway and is, in fact, City-owned right-of-way.
- How long ago was this project approved? Assistant Planner Sikela indicated that the project was approved on July 6, 2010 by Resolution of the City Council.
- Did the City have to finish the initial entitlement process because the original developer went out of business? Assistant Planner Sikela responded yes, that was correct.
- It would be valuable to know how much the City spent to finish the entitlement process since the City spent approximately \$45,000 to remove the previously-existing on-site modular buildings after completion of entitlement processing.
- Whoever buys this project site does not have an obligation to construct this specific project, correct? Assistant Planner Sikela indicated that was correct and a developer could purchase the property and build the project as it was approved or propose a different project.
- Why does the City continue to approve the extensions? Assistant Planner Sikela indicated that the entitlements add value to the land and enable a prospective applicant to develop the property more expeditiously than with a new application. Interim Director Ayers indicated that the land is more valuable with the entitlements than without the entitlements.

- Even if a prospective developer were to purchase the project, there would be considerations related to applicable laws and regulations changing since the time of initial approval, and time limits related to such things as the project-related environmental review document. Interim Director Ayers indicated that, as long as the project scope does not change, there is no expiration date on the environmental documents which, in case of the Creekside Terrace project, is a Mitigated Negative Declaration.
- It would be good to know the applicability of affordable housing requirements to the project.
- It would seem that the expiration of the Town Center parking waiver may have an impact upon the project in terms of the project no longer qualifying for a lessening of the applicable parking requirements and possibly having to provide more on-site parking than the 21 off-street parking spaces that have been approved. City Engineer Alman indicated that, because the project was approved with a Vesting Tentative Map, the Subdivision Map Act allows for the project to comply with the parking regulations (or parking waiver) that was in effect at the time the Vesting Tentative Map was originally approved.
- Is there a limit on the number of times the City can extend the entitlements? Interim Director Ayers indicated there is no limit of the number of the times the entitlements can be extended. City Engineer Alman explained the benefit of keeping a Vesting Tentative Map in place and the value that these entitlements add to the project site.
- The City needs to continue to actively market the project.
- Would the proximity of Mitchell Creek near the project preclude restaurant uses at Creekside Terrace? Interim Director Ayers and Commissioner Altwal both explained that they were not aware of any creek-related requirements that would prohibit locating restaurant uses within the Creekside Terrace building. Stormwater quality regulations would require any restaurant wastewater to be discharged to the sanitary sewer and would prohibit any non-stormwater discharges to the creek.

Chair Cloven opened the public hearing.

There were no public comments.

Chair Cloven closed the public hearing.

Commissioner Gavidia expressed concerns over the amount of money that the City has spent up to this point in order to keep the entitlements current, including having the previously-existing on-site modular buildings demolished, and felt that extension of the entitlements was more a financial liability than an asset.

Assistant Planner Sikela and City Engineer Alman indicated that demolition of the previously-existing on-site modular buildings was done more for removing unsafe, dilapidated structures from the Town Center and improving safety, especially given that students from nearby Mount Diablo Elementary School would walk in close proximity to the buildings on a daily basis and may be inclined to play inside the buildings.

Chair Cloven expressed concern that no developer has purchased the property, but felt that allowing the entitlements to expire would not make the land more valuable than if the entitlements were extended.

Vice Chair Chippero, Commissioner Altwal, and Commissioner Denslow concurred that subject property is more valuable with the entitlements still valid than if the entitlements were allowed to expire.

**Commissioner Altwal moved and Commissioner Denslow seconded a motion to adopt Planning Commission Resolution No. 07-19, thereby extending for one year the Creekside Terrace Development Plan and Vesting Tentative Map through January 6, 2021. The motion passed 4-1.**

**6. OLD BUSINESS**

None.

**7. NEW BUSINESS**

None.

**8. COMMUNICATIONS**

**8.a. Staff**

Assistant Planner Sikela introduced the new Interim Community Development Director, Dana Ayers, and thanked Interim Director Ayers and City Engineer Alman for their assistance with the Creekside Terrace public hearing.

Interim Director Ayers indicated that appeals to the City Council had been filed for the actions of the Planning Commission regarding The Olivia on Marsh Creek project as related to the Planning Commission's 3-1 approval of the CEQA Infill Exemption and the 2-2 no decision rendered for the remaining project-related entitlements.

**8.b. Commission.**

None.

**9. ADJOURNMENT**

**9.a. The meeting was adjourned at 8:10 p.m. to the regularly-scheduled meeting of the Planning Commission on January 28, 2020.**

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Submitted by  
Milan J. Sikela, Jr.  
Assistant Planner


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Approved by  
Peter Cloven  
Chair

# PLANNING COMMISSION STAFF REPORT

**Meeting Date:** March 10, 2020

**Item Number:** 5.a

**From:** Milan J. Sikela, Jr.   
Assistant Planner

**Subject:** Public Hearing to consider a Home Occupation Permit request to allow a home-based business involving photography to be conducted from a single-family residence (HOP-03-20)

**Applicant:** Teresa Merani

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## **REQUEST**

Teresa Merani, the applicant, requests approval of a Home Occupation Permit request to allow a home-based business involving photography to be conducted from a single-family residence.

## **PROJECT INFORMATION**

**Location:** 5873 Caulfield Drive  
APN: 118-230-013

**General Plan Designation:** Low Density – Single Family Residential (1.1 to 3.0 units per acre).

**Zoning:** Planned Development (PD).

**Environmental Review:** Categorically exempt per Section 15301 – Existing Facilities of the California Environmental Quality Act (CEQA) Guidelines.

**Public Notice:** On February 28, 2020, a public hearing notice was posted at the notice boards and mailed to property owners within 300 feet of the project site.

**Authority:** Section 17.71.030.A of the Clayton Municipal Code authorizes the Planning Commission to approve a home occupation permit in accordance with the standards in Clayton Municipal Code Section 17.71.030.B.

## **DISCUSSION**

The applicant has requested approval of a home occupation permit to allow photography business to be conducted from a single-family residence located at 5873 Caulfield Drive (see **Attachment A** for the vicinity map). A written description of the proposed home-based business has been provided (see **Attachment B**). According to the information provided by the applicant, the home-based business would involve photography of newborn babies that would be brought to the house by the parents/caretakers. The business is proposed to be called Teresa Merani Photography. The applicant is proposing to photograph a maximum of two babies per week with operational hours and days of 9:00 a.m. to 3:00 p.m. from Monday through Saturday. Photography sessions would occur individually and would last approximately one to three hours per session.

Section 17.71.030 of the Clayton Municipal Code requires Planning Commission review and approval for any home occupation generating client traffic. Section 17.71.030.B.2 of the Clayton Municipal Code states, in part, that “the home occupation shall not generate client/student traffic to the residence in excess of six (6) clients/students per day, unless the number is reduced by the Planning Commission.” Given the proposed maximum of photographing two babies per week, the subject Home Occupation Permit request complies with the maximum number of clients allowed to visit the residence per day in accordance with Clayton Municipal Code regulations.

The applicant has indicated that the driveway of the subject residence would be used for the parking of clients’ vehicles. As a result, no street parking would be necessary for the home-based business. Per Chapter 17.37 of the Clayton Municipal Code, single-family dwellings are required to have four off-street parking spaces (two covered and two uncovered) per unit. The subject single-family residence proposed for the home-based business has two covered parking spaces in the garage and four spaces in the driveway for a total of six on-site parking spaces (see **Attachment C** for front view of subject property). Given this off-street parking arrangement, sufficient off-street parking is provided for the property owner’s and clients’ vehicles.

Since the number of clients proposed to visit the subject residence would not exceed the maximum allowable visits of six per day, and the home occupation business would be conducted within the allowed days and hours (with no business operation on Sundays), the proposal meets the Clayton Municipal Code requirements as related to client/student traffic and days of operation as well as the other applicable home occupation standards of approval.

## **RECOMMENDATION**

Staff recommends the Planning Commission receive and consider the staff report and all information provided and submitted to date, receive and consider all public testimony and, if determined to be appropriate, conditionally approve Home Occupation Permit HOP-03-20 to allow a home-based business involving photography of babies to be conducted from a single-family residence located at 5873 Caulfield Drive.



### **Proposed Conditions of Approval**

1. The Home Occupation shall be conducted in compliance with requirements in Chapter 17.71 of the Clayton Municipal Code.
2. The applicant shall obtain a Clayton Business License prior to commencing operation of the home occupation. Business license application may be obtained from the City's website [www.ci.clayton.ca.us](http://www.ci.clayton.ca.us) or at Clayton City Hall, 6000 Heritage Trail, Clayton, 925-673-7310.
3. Upon a determination made by the City of a violation of or failure to comply with Clayton Municipal Code Chapter 17.71 or these Conditions of Approval, this Home Occupation Permit HOP-03-20 may be revoked or modified in accordance with Clayton Municipal Code Sections 17.64.050 – 17.64.070.
4. The applicant agrees to indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including, but not limited to, attorney's fees, costs, and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, and any environmental review conducted under the California Environmental Quality Act for this entitlement and related actions.

### **Advisory Notes**

Advisory notes are provided to inform the applicant of: (a) Clayton Municipal Code requirements; and (b) requirements imposed by other agencies. The advisory notes state requirements that may be in addition to the conditions of approval.

1. This Home Occupation Permit shall be used, exercised, or established within twelve (12) months after the granting of the Permit, or a time extension must be obtained from the Planning Commission; otherwise, the Permit shall be null and void (Clayton Municipal Code Sections 17.64.010 –17.64.030).
2. If the project site is located within an area subject to covenants, conditions, and restrictions (CC&Rs) administered by a homeowners' association (HOA), additional requirements and/or approvals may be required by the HOA. Before proceeding with the project, it is advisable to check with the HOA to ensure any applicable requirements are met.

### **ATTACHMENTS**

- A. Vicinity Map
- B. Written Description for Teresa Merani Photography
- C. Street View of the Subject Property



**VICINITY MAP**

	<p><b>Merani Residence</b> <b>Home Occupation Permit HOP-03-20</b> <b>5873 Caulfield Drive</b> <b>APN: 118-230-013</b></p>	<p><b>N</b></p>  <p><b>(Not to Scale)</b></p>
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**ATTACHMENT A**

## WRITTEN DESCRIPTION FOR TERESA MERANI PHOTOGRAPHY

To: Clayton Planning Commission

From: Teresa Merani

Date: March 3, 2020

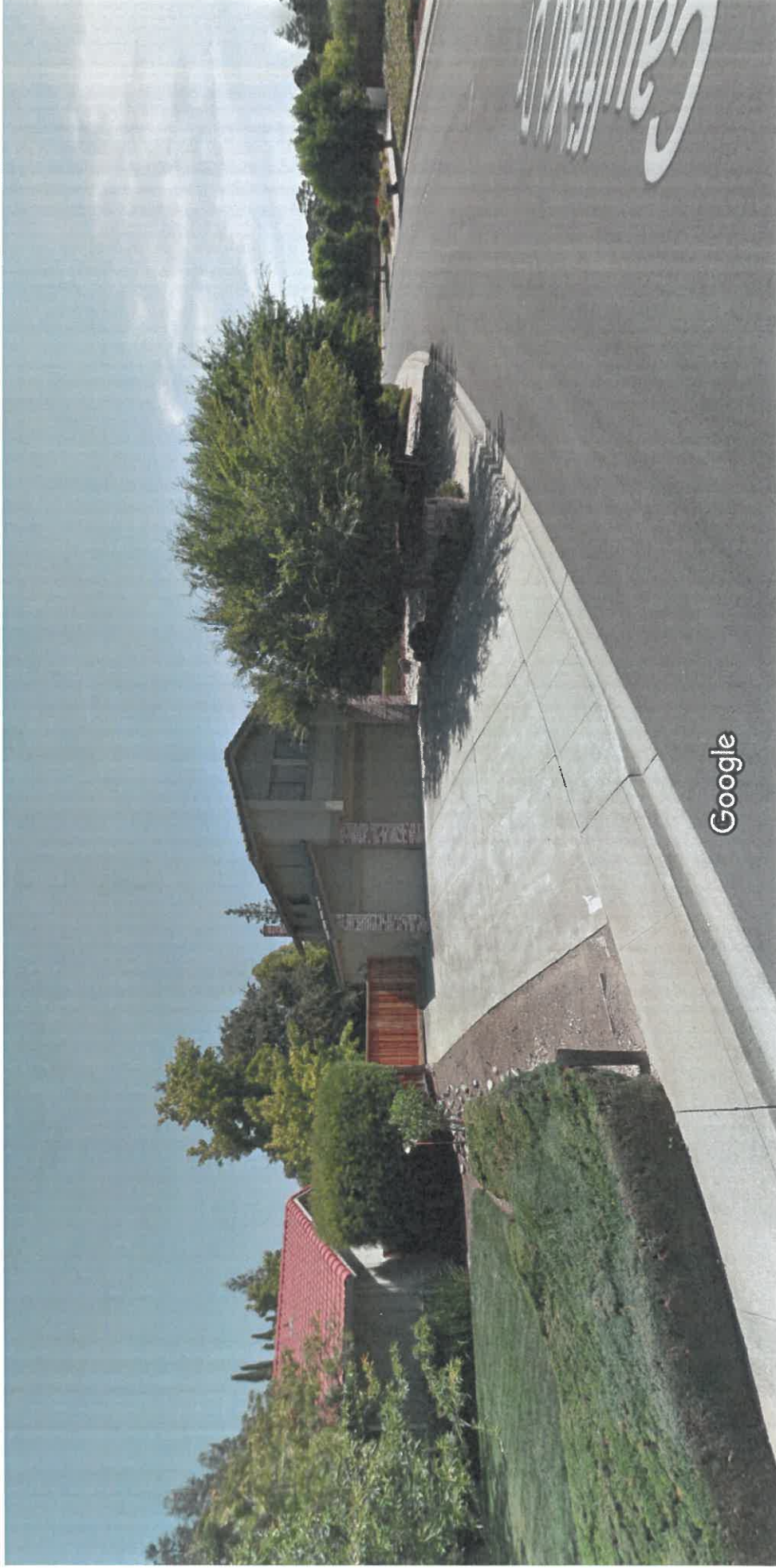
Re: Written Description of Home Occupation Permit for Teresa Merani Photography (HOP-03-20)

My home-based business, Teresa Merani Photography, located at 5873 Caulfield Drive, involves photography of newborn babies. A maximum of two babies will be photographed each week, with each photography session occurring separately. Each photography session will last between one and three hours. My days and hours of operation will be 9:00 a.m. to 3:00 p.m. from Monday through Saturday. With four off-street parking spaces available in my driveway, I will have sufficient off-street parking for my clients to park their vehicles.

**RECEIVED**  
MAR 3 2020  
CITY OF CLAYTON  
COMMUNITY DEVELOPMENT DEPT.

ATTACHMENT B





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Clayton, California



Street View

# ATTACHMENT C