

Minutes
Clayton Planning Commission Meeting
Tuesday, December 11, 2018

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

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

Present: Chair Bassam Altwal
 Vice Chair Peter Cloven
 Commissioner A. J. Chippero
 Commissioner William Gall

Absent: None

Staff: Community Development Director Mindy Gentry
 Assistant Planner Milan Sikela, Jr.

2. ADMINISTRATIVE

- 2.a. Review of agenda items.
- 2.b. Declaration of Conflict of Interest.
- 2.c. Commissioner A. J. Chippero to report at the City Council meeting of December 18, 2018.

3. PUBLIC COMMENT

None.

4. MINUTES

- 4.a. Approval of the minutes for the August 28, 2018 Planning Commission meeting.

Commissioner Gall moved and Vice Chair Cloven seconded a motion to approve the August 28, 2018 Planning Commission minutes, as submitted. The motion passed 4-0.

5. PUBLIC HEARINGS

- 5.a. **UP-02-18, Use Permit, St. John's Episcopal Church, 5555 Clayton Road, APN: 118-101-025.** A request for approval of a Use Permit to allow a preschool to operate at St. John's Episcopal Church. The preschool is proposed to operate Monday through Friday from 6:30 a.m. to 6:00 p.m., offering full day and half day programs using four existing on-site classrooms and a play area for a maximum of 60 children ranging from 2 to 5 years of age.

Assistant Planner Sikela presented the staff report.

Commissioner Gall had the following questions:

- How will the trash and recycling enclosure be addressed? Assistant Planner Sikela responded that the City's trash and recycling is handled by Republic Services who would review and approve the trash enclosure along with the City of Clayton to ensure that the enclosure meets all of Republic Service's requirements as well as any enclosure-related stormwater regulations where pertinent and applicable.
- Did staff receive any public comments from the neighbors regarding the proposal? Assistant Planner Sikela responded that no comments were received by staff.
- Would the on-site kitchen involved with the food preparation for the students qualify as being a commercial kitchen? Director Gentry responded yes, based on the uses proposed for the on-site kitchen, it would qualify as a commercial kitchen.
- Would the trash/recycling enclosure have to be plumbed for sanitary sewer? Assistant Planner Sikela responded yes, the trash/recycling enclosure would have to be plumbed for sanitary sewer.
- Is there another vehicular access to the subject property site other than from Clayton Road? Assistant Planner Sikela responded that the only access to the subject property was from Clayton Road.

Commissioner Chippero had the following question and comment:

- Will the subject property continue to be used for the temporary Christmas tree lot during operation of the preschool? Assistant Planner Sikela responded that, during a site visit to the subject property, it was observed that the temporary Christmas tree lot and existing play area did not appear to interfere with the operation of each other and that adequate on-site parking already existed to accommodate any vehicles that might be involved in either use.
- The applicant should ensure that vehicles driven by people using the subject property to vote during the elections do not impact the available parking for people involved with the preschool.

Vice Chair Cloven indicated that there should be a distinct separation between the play area and other non-student areas such as the voting areas and Christmas tree lot.

Chair Altwal explained if the church's preschool improvements involve a construction budget in excess of \$161,000, the facility would then qualify as a "public accommodation" and additional regulations would be applicable to the children's areas of the preschool such as, but not limited to, separate bathrooms and specific dimensional thresholds related to accessibility and paths of travel. Director Gentry indicated that the construction budget is not under the Commission's purview. The Commission is restricted to only the land use component of the proposal while any additional Americans with Disabilities Act requirements and other applicable regulations would be reviewed by the Contra Costa County Building Department in tandem with other agencies, where pertinent.

The public hearing was opened.

Pat Covey, 7 Xavier Place, indicated that her property is located directly adjacent to and west of the project site and that she has concerns about traffic and noise that might be generated by the proposed use.

One of the applicants, Paul Henshaw, had the following comments:

- We spoke to our neighbors about the proposal.
- We tried to locate the play area in a way so as to reduce noise impacts to neighboring properties.
- We have locking gates that are located between the areas where the children will be and other areas of the property outside of the children's areas.
- A teacher will accompany the children at all times to all areas of the subject property that are involved with the preschool use.
- We are looking a discontinuing using the subject property for voting and for the temporary Christmas tree lot.
- All areas of the subject property involved with the preschool use, including the kitchen, will be inspected by the State.
- The Director of our preschool has many years' experience in the operation of preschool facilities located on church properties.

The public hearing was closed.

Vice Chair Cloven had the following comments:

- I am a member of the Clayton Valley Presbyterian Church and we have a preschool on the church property.
- There is a long waiting list for quality daycare in Clayton.
- As long as the proposal complies with all applicable regulations, I support additional daycare and preschool resources for the families of Clayton.

Chair Altwal had the following comments:

- The applicant needs to be very diligent in addressing all Americans with Disabilities Act requirements including, but not limited to, paths of travel, accessibility to on-site areas, and adequate parking.
- I concur with Vice Chair Cloven's comments.

Vice Chair Cloven moved and Commissioner Chippero second a motion to approve use Permit UP-02-18, with the findings and conditions of approval recommended by staff. The motion passed 4-0.

- 5.b. ENV-01-08, DP-01-08, MAP-02-09, TE-02-18, 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, 2020. This request is in accordance with Sections 17.28.190 (Development Plan) and 16.06.030 (Subdivision Map) of the Clayton Municipal Code.**

Director Gentry presented to staff report.

Chair Altwal inquired if there was a way to approve an extension for the entitlements that would be greater than one year? Director Gentry responded that the Clayton Municipal Code only allows extensions in one-year increments.

Vice Chair Cloven had the following questions:

- Is the project site located on City-owned land? Director Gentry responded yes the project site is located on City-owned land.
- Who paid for the plans and entitlements initially? Director Gentry responded that a private developer originally started the entitlement process and submitted the application materials but then went bankrupt. Following the private developer's bankruptcy, the City stepped in when, at that time, the Redevelopment Agency existed and that is where the funding came from to carry the project forward.
- So is it in the City's best interest to approve the extensions and continue carrying the entitlements forward with the hopes of selling the properties and entitlements to a private developer? Director Gentry responded that was correct and that, from the City's perspective, this project is seen as an economic development opportunity which, at some future time, could be sold to a private developer.
- Would this project impact the riparian corridor of Mitchell Creek? Director Gentry responded that the plan is to retain the natural condition of the riparian corridor of Mitchell Creek.

Commissioner Chippero expressed support of approving the extension and indicated that the project would complement and the Town Center and would be an improvement over the existing modular buildings that are currently located on the project site.

Frank Gavidia, 104 Gold Rush Court, had the following comments:

- With the entitlements that have been extended for this project, our vision for the Town Center is being limited to one specific type of development.
- These entitlements have been extended for eight years.
- The City should allow for more flexibility in what type of development occurs in the Town Center to encourage projects that are more Clayton-friendly.
- The City should not be carrying the cost of keeping these entitlements going and paying for project-related demolition.
- The City should do a better job marketing the project and have the developer that buys the property pay for the project-related costs.
- We want to avoid rubber-stamping the project and limiting our choices of what types of development are constructed in our community.
- We need to avoid a situation where there is a development constructed in the Town Center that is not compliant with the City's vision.
- The Fulcrum project is an example of something that was zoned differently than the project that was proposed.
- Developers need to comply with the City's vision, not the other way around where the City accommodates a developer's vision.

Chair Altwal had the following comments:

- A developer can proposed anything at any time and the City would review the proposal accordance with the applicable regulations.
- Extending these entitlements does not prevent another developer from coming to the City with any type of proposal.
- The City cannot predict what type of development may be proposed for a particular property in Clayton.

Shawn Robinson, representing the Clayton Community Church, had the following comments:

- He is neither for nor against the decision rendered by the Planning Commission tonight regarding the subject entitlement extensions.
- The Clayton Community Church has purchased property directly adjacent to and west of the project site.
- Wanted to go on record saying that we are not opposed to having a thoroughfare going through the Clayton Community Church property, as long as a developer pays for it.

Vice Chair Cloven indicated that any project would be reviewed in accordance with the development process even if we continue to approve the extensions of the subject entitlements.

Chair Altwal asked will project-related demolition come back before the Planning Commission for review. Director Gentry indicated that no, the project-related demolition would not come back before the Planning Commission as the project-related demolition would require only an administratively-approved permit from the County in addition to the fact that lead and asbestos testing has already been completed and the City has prepared bid documents in order to accept formal proposals from contractors to perform the demolition.

Commissioner Chippero moved and Commissioner Gall seconded a motion to adopt Planning Commission Resolution No. 05-18, thereby extending for one year the Creekside Terrace Development Plan and Vesting Tentative Map through January 6, 2020. The motion passed 4-0.

6. OLD BUSINESS

None.

7. NEW BUSINESS

None.

8. COMMUNICATIONS

8.a. Staff.

Director Gentry indicated the following:

- Former Planning Commissioner Carl Wolfe has been elected to the City Council and so, as a result, the City has posted the vacancy and application process for City Councilmember Carl Wolfe's now-vacant position on the Planning Commission.
- The Planning Commission applications are due by 5:00 p.m. on Thursday, January 10, 2019 and the City Council will be conducting interviews and render their decision at the City Council meeting of January 15, 2019.
- The Tuesday, December 25, 2018 Planning Commission meeting will be cancelled.

8.b. Commission – None.

9. ADJOURNMENT

- 9.a. The meeting was adjourned at 8:03 p.m. to the regularly-scheduled Planning Commission meeting on January 8, 2019.



Submitted by
Mindy Gentry
Community Development Director



Approved by
Bassam Altwal
Chair