

**Minutes
City of Clayton Planning Commission
Regular Meeting
Tuesday, February 14, 2023**

1. CALL TO ORDER

Chair Daniel Richardson called the meeting to order at 7:01 p.m.

2. PLEDGE OF ALLEGIANCE

Chair Richardson led the Pledge of Allegiance.

3. ROLL CALL

Present: Chair Daniel Richardson
 Vice Chair Richard Enea
 Commissioner Justin Cesarin
 Commissioner Maria Shulman
 Commissioner Ed Miller

Planning Commission Secretary/Community Development Director Dana Ayers and Assistant Planner Milan Sikela were present from City staff.

4. PRESENTATIONS

There were no presentations.

5. ACCEPTANCE OF THE AGENDA

There were no changes to the agenda as submitted.

6. PUBLIC COMMENT

There were no public comments on any item not on the agenda.

7. CONSENT CALENDAR

A. Minutes of Planning Commission Special Meeting of January 11, 2023.

There being no member of the public attending in person or virtually who wished to comment on the Consent Calendar, Chair Richardson invited a motion.

Vice Chair Enea moved to adopt the Consent Calendar with Minutes of the Planning Commission Special Meeting of January 11, 2023 as submitted. Commissioner Miller seconded the motion. The motion passed by vote of 5 to 0.

8. PUBLIC HEARING

A. Request for Extension of Approval of the Development Plan Permit (DP-01-19) for the Oak Creek Canyon Residential Development.

This is a public hearing to consider a request by Doug Chen of West Coast Home Builders, Inc. (Applicant), for a one-year extension to exercise the Development Plan Permit approval granted by the Clayton City Council on June 29, 2021, for the Oak Creek Canyon Residential Development (Project). The Project encompasses grading and site preparation, removal of nine of the 21 existing trees on the property, installation of a new roadway and utilities infrastructure, and construction of six detached single-family residences ranging from approximately 3,049 to 4,488 square feet in area and between 23 to 32 feet in height, along with Project-related landscaping, drainage, fencing, lighting, and retaining walls on a 9.03-acre property located on the north side of Marsh Creek Road at its intersection with Diablo Parkway (Assessor's Parcel No. 119-070-008).

Environmental Determination: At its meeting of June 29, 2021, the City Council adopted the Oak Creek Canyon Final Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program (MMRP) in accordance with the requirements of the California Environmental Quality Act (CEQA, Public Resources Code section 21000 *et seq.*), and the State CEQA Guidelines (California Code of Regulations, Title 14, section 15000 *et seq.*). No additional findings are necessary for CEQA compliance for the current request for extension of entitlements of the approved Project.

Director Ayers introduced the item and summarized the staff report.

Chair Richardson invited questions from the Commissioners. No Commissioners had any questions. Chair Richardson opened the public hearing and invited the Applicant to speak.

Doug Chen, representing West Coast Home Builders, Inc., thanked the Commission for hearing the Applicant's request for extension of the Development Plan Permit approval. He re-iterated that the developer had experienced a delay in the plan preparation process. He had submitted the Final Map, grading plans and improvement plans for the Project and hoped to go through the plan check process for those submittals in the next few months.

Commissioner Miller asked when the Applicant anticipated breaking ground for the Project. Mr. Chen said he hoped to get through the grading plan and improvement plan check process in the next six months, and to start the architectural plan check process during that same time. He hoped to have a grading permit by Fall 2023.

Commissioner Shulman asked if the Applicant had a contingency plan if that schedule changed. Mr. Chen explained that the request for extension of

the Development Plan Permit approval did not affect the term of approval of the Vesting Tentative Map or the plan checking of the grading plan. The Development Plan Permit essentially approved just the architecture of the houses so, if it was not extended, then the Applicant would need to re-apply for approval of the design of the houses.

In response to a question from Commissioner Miller, Chair Richardson confirmed that Development Plan Permit approvals could be extended in one-year increments. Chair Richardson stated that the Commission's role at tonight's meeting was to approve or deny the Applicant's request to extend the Development Plan Permit approval for one year. He further confirmed with staff that there was no limit to the number of times an extension could be requested. Director Ayers added that the approval of the Vesting Tentative Map was valid for another year and a half and did not currently need an extension of approval.

There being no one else in attendance in person or virtually who wished to speak on the item, Chair Richardson closed the public hearing and invited discussion among Commissioners.

Commissioner Miller said that he served on the Planning Commission when the Project was first reviewed. He wanted to clarify that the Commission's previous action to recommend denial of the project without prejudice was done because the staff recommendation for approval included several dozen conditions requiring revisions to the Project, and the recommended revisions made it difficult to understand the Project. The Project and the recommended conditions were subsequently revised, and the Council approved the revised Project with the revised recommended conditions. Commissioner Miller understood the Commission's role this evening was narrow in scope, being limited only to the extension request, and not a re-assessment of the Project's merits.

Commissioner Cesarin asked if the Project would be required to comply with the General Plan policies that were in effect at the time of Project approval or at the time of Project construction. Director Ayers advised that, when the Project was approved by the City Council, the Project included amendments to the General Plan, Marsh Creek Road Specific Plan (MCRSP) and Zoning Map. The Project was subject to the policies and regulations of the General Plan, MCRSP and Zoning Code as they were approved with the Council's action. Further, in response to Commissioner Cesarin, Director Ayers clarified that the Project's Vesting Tentative Map entitlement gave the developer assurance that the land use policies that were in place when the Project was approved would be the ones with which the Project must comply. She added that there were no pending General Plan amendments that would affect the entitled Project.

Commissioner Cesarin asked if some of the previously conducted studies, such as the rare plant survey, biological resource assessment, stormwater

control plan and geotechnical report, had expiration dates. Noting that some of the reports were up to five years old, he asked if the studies would be updated prior to Project construction. Director Ayers advised that not all reports were required to be updated. For example, a new geotechnical report might not be required since geology and soils do not change rapidly. However, some of the biological resources surveys would need to be re-done prior to construction as part of the Project's compliance with the permitting requirements of the East Contra Costa County Habitat Conservation Plan (HCP), and the Applicant would need to finalize the Project's stormwater control plan prior to getting approval of the subdivision Final Map to meet requirements of stormwater quality permits. Commissioner Cesarin confirmed with staff that the HCP provides permit coverage for both plant and animal species.

Vice Chair Enea said he anticipated that the Commission would see additional requests for extensions of approvals. He confirmed with staff that the action of tonight's meeting was just an extension of the previously-approved entitlement, and that any significant changes to the Project that might affect its compliance with adopted regulations, such as building setbacks, would be brought back to the Commission and City Council.

Chair Richardson explained that the only request the Commission was being asked to consider tonight was one of time, and whether the Applicant should get additional time for their Project. He said that, given impacts caused by COVID-19 and pandemic-associated slowdown in activities, he believed that the Applicant had adequate justification for that additional time. There being no other comments from Commissioners, Chair Richardson invited a motion.

Vice Chair Enea made a motion to adopt the draft Resolution No. 02-2023 attached to the staff report. Commissioner Shulman seconded the motion. There being no discussion on the motion, Chair Richardson called for the vote. The motion passed by vote of 5 to 0.

9. COMMUNICATIONS

There were no communications from staff or Commissioners.

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10. ADJOURNMENT

The meeting was adjourned at 7:23 p.m. to the next regular meeting of the Planning Commission on February 28, 2023.

Respectfully submitted:



Dana Ayers, AICP, Secretary

Approved by the Clayton Planning Commission:



Daniel Richardson, Chair