

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.



Submitted by
Milan J. Sikela, Jr.
Assistant Planner



Approved by
Peter Cloven
Chair