

Minutes
Clayton Planning Commission Meeting
Tuesday, November 22, 2011

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, Commissioner Bob Armstrong, Commissioner Sandra Johnson, and Commissioner Gregg Manning

Absent: Vice Chair Keith Haydon

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

Administrative

1A. Review of agenda items.

1B. Commissioner Bob Armstrong to report at the City Council meeting on December 6, 2011.

Public Comment

None.

Approval of Minutes

2. Approval of minutes from the meeting of October 25, 2011.

Commissioner Manning moved and Commissioner Johnson seconded a motion to approve the minutes, as amended. The motion passed 4-0.

Public Hearing

3. **SPR 03-11, Site Plan Review Permit, Second Story Balcony**, 308 Mount Sierra Place, APN 119-510-014. A request for a site plan review permit to consider allowing the completion of a partially-constructed second-story balcony and adjoining staircase to be located on the rear of a two-story, single-family residence. The project measures a total of approximately 394 square feet in area, which includes an approximate 350 square-foot balcony and 44 square-foot staircase. The project is approximately 9 feet 6 inches in height from ground level to the balcony deck and 13 feet in height from ground level to the top of the balcony railing.

Director Woltering presented the staff report and indicated the following:

- The balcony came to staff's attention through a code enforcement complaint.
- A patio cover had previously existed at that location.
- Two options are being proposed: Option 1 entails completion of the balcony; Option 2 entails removal of the balcony to return the structure to its original state as a patio cover.
- A neighbor has expressed concerns regarding privacy.
- Applicant will be installing landscaping (trees, shrubs, and planter boxes) in order to address screening and privacy.

Chair Richardson had the following questions:

- Is a slider located on the rear of the second floor of the residence facing the balcony? *The applicant, Mark Lingenfelter, replied that a slider does not exist but is proposed to be installed as part of the project.*
- Who built the balcony? *The applicant replied that he had built the balcony.*

Ahmed Elwy, 305 Mountaire Parkway, distributed photographs and indicated the following:

- We are neighbors to the rear of and adjacent to the subject property.
- Our residence is a single-story, whereas the subject residence is two stories.
- It appears that the balcony is 21 feet from the rear property line, while the eye-level height of a viewer standing on the balcony would be 16 feet above ground level. As a result of the viewer eye-level height and the balcony distance from the rear property line, a person standing on the balcony would have a direct line of sight distance into our back yard and the rear elevation of our home.
- Our bathroom window can be seen from the balcony.
- We have concerns regarding privacy issues.

Commissioner Armstrong asked Mr. Elwy is the bathroom window in the bathroom frosted? *Mr. Elwy responded that the window is frosted and measures eight square feet in area.*

Commissioner Johnson asked Mr. Elwy if he was satisfied with the trees and shrubs proposed to be planted by the applicant in order to address privacy and screening? *Mr. Elwy responded yes, if Option 1 is approved by the Planning Commission. If Option 2 is approved, then the landscaping is not needed.*

Chair Richardson indicated that the two-story residence located on the corner of Mountaire Parkway close to Mr. Elwy's property has a balcony.

The applicant's wife, Diane Lingenfelter, indicated the following:

- We are good neighbors and do not want to look into anyone's back yard.
- As soon as we became aware of the complaint, we went around to all of our neighbors to discuss the balcony with them. Mr. Elwy did not respond to our efforts to contact him.
- This balcony is a second-story issue, which we do not have control over. The residence was built as it is.
- Installation of planter boxes with shrubs will minimize views into neighboring yards.
- In talking with the other neighbors, none of them had a problem with the balcony.

Mr. Elwy indicated the following:

- Glad to hear that landscaping will be installed.
- The applicants attempted to make contact with us, but we were very busy at that time.
- It appears that the impacts to privacy are being addressed.

The public hearing was closed.

Chair Richardson indicated that Commissioner Manning departed the meeting since he was not feeling well.

Commissioner Johnson indicated that installation of landscaping planter boxes would be helpful to address the privacy concerns.

Chair Richardson indicated he has concerns with “after the fact” approvals since the neighbors are not notified before the construction begins.

Commissioner Armstrong moved and Commissioner Johnson seconded a motion to approve Site Plan Review Permit SPR 03-11 (Option 1), with the findings and conditions recommended by staff, including the recommendation that the final siting of plantings be inspected by the Community Development Director to assure that privacy concerns are addressed where possible. The motion passed 3-0.

Old Business

4. Staff to provide options for Planning Commission consideration regarding amending Chapter 6.05 and Sections 17.16.130, 17.36.070, and 17.60.030 et al. of the Clayton Municipal Code to allow for the keeping of fowl on residential lots that are not located in an Agricultural District.

Director Woltering presented the staff report and indicated the following:

- Staff recommendation is to not amend the Code but to enter into a “Reasonable Accommodation Agreement” (RAA) with the Casagrande family to allow the keeping of chickens in this circumstance.
- Staff would work with the City Attorney to finalize the language and conditions within this Agreement.

Commissioner Armstrong asked will the RAA require notification? *Director Woltering responded that he will check with the City Attorney.*

Commissioner Armstrong indicated that the Casagrandes should communicate this matter with neighbors and their homeowner’s association.

Commissioner Johnson asked how would the situation be monitored after the RAA is entered into? *Director Woltering indicated that the Casagrandes and neighbors would contact staff, based on a “good faith” effort.*

Commissioner Johnson indicated that wording pertaining to a “good faith” effort should be included in the RAA.

Chair Richardson indicated that he wanted to ensure the RAA was not precedent-setting.

Ms. Casagrande indicated the following:

- Thank you staff and Planning Commission for the service you provide the City.
- The real issue is the odor, not the chickens.
- The odors are not caused by the chickens but, rather, the compost bins.
- The chickens lay eggs only five to ten minutes per day, so noise is not a problem.

- The chicken coop is located approximately 20 to 25 feet from the property line.
- Really appreciate the City's efforts.
- The tics our son experiences as a result of Tourette Syndrome have subsided since we have had the chickens.

Chair Richardson indicated that he felt the RAA was a much better solution to the issue as compared with amending the Code.

Director Woltering indicated that staff will be following up next week with the City Attorney's office regarding the RAA.

Commissioner Armstrong moved and Commissioner Johnson seconded a motion to support entering into a "Reasonable Accommodation Agreement" with the Casagrande family, including conditions of approval provided by staff and the City Attorney. The motion passed 3-0.

Communications

6A. Staff.

Director Woltering provided an overview of the introduction of the Housing Element Implementation measures scheduled for the December 13, 2011 Planning Commission meeting.

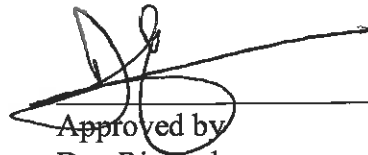
6B. Commission – None.

Adjournment

7. The meeting was adjourned at 7:55 p.m. to the following regularly-scheduled meeting of **December 13, 2011.**



Submitted by
David Woltering, AICP
Community Development Director



Approved by
Dan Richardson
Chair

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