

**CITY OF CLAYTON BOARD OF ALDERMEN
TUESDAY, FEBRUARY 25, 2020
NO DISCUSSION SESSION
CITY HALL COUNCIL CHAMBERS, 2ND FL
10 N. BEMISTON AVENUE**

**CITY OF CLAYTON BOARD OF ALDERMEN MEETING AGENDA
TUESDAY, FEBRUARY 25, 2020 – 7:00 P.M.
CITY HALL COUNCIL CHAMBERS, 2ND FL
10 N. BEMISTON AVENUE**

ROLL CALL

MINUTES – February 11, 2020

PUBLIC REQUESTS & PETITIONS

PUBLIC HEARING

1. Ordinance – To approve rezoning from C-1 neighborhood Commercial District to R-4 Low Density Multiple Family Dwelling for property located at 114 Gay Avenue. (Bill No. 6780)
 - *To consider approval to permit the construction of two, five-unit, three story townhomes.*

REPORT FROM THE CITY MANAGER

1. Motion – To approve a liquor license for the Wine & Cheese Place.
 - *To consider approving a liquor license upgrade request for TAVco Holdings I, LLC d.b.a. The Wine and Cheese Place.*
2. Motion – To approve the disposal of records per the Missouri Secretary of State General Records Retention Schedule.
 - *To consider approving the destruction of records.*
3. Ordinance – To approve the appointment of members to the Board of Directors to the 25 N. Central Community Improvement District (CID). (Bill No. 6781)
 - *To consider approving a new appointment and reappointment.*
4. Appeal –Plan Commission/Architectural Review Board’s decision to approve a Site Plan and Architectural Plans for new construction of a townhome project at 114, 124 And 134 Gay Avenue.

ADJOURNMENT

Subject to a motion duly made in open session and a roll call vote pursuant to Section 610.022 the Board of Aldermen may also hold a closed meeting, with a closed vote and record for one or more of the reasons as authorized by Section 610.021(1), (2) and (3) Revised Statutes of Missouri, relating to legal issues, real estate and/or personnel, negotiation of a contract pursuant to Section 610.021(12) RSMO., proprietary information pursuant to Section 610.021(15), and/or information related to public safety and security measures pursuant to Section 610.021(18) and (19) RSMO.

THE CITY OF CLAYTON

Board of Aldermen
City Hall – 10 N. Bemiston Avenue
February 11, 2020
7:00 p.m.

Minutes

Mayor Harris called the meeting to order and requested a roll call. The following individuals were in attendance:

Aldermen: Mark Winings, Joanne Boulton, Richard Lintz, Bridget McAndrew, and Susan Buse.

Mayor Harris
Interim City Manager Watson
City Attorney O'Keefe

Absent: Ira Berkowitz

Motion made by Alderman Lintz to approve the January 28, 2020 minutes. Alderman Boulton seconded.

Motion to approve the minutes passed unanimously on a voice vote.

PUBLIC REQUESTS AND PETITIONS

The Clayton Police Department introduced the Shaw Park Five puppies and their new owners. In December 2019 the two day old puppies were rescued by the Clayton police officers after they had been dumped in Shaw Park.

A PUBLIC HEARING AND AN ORDINANCE TO CONSIDER APPROVING THE REZONING FROM C-1 NEIGHBORHOOD COMMERCIAL DISTRICT TO R-4 LOW DENSITY MULTIPLE FAMILY DWELLING DISTRICT FOR 114 GAY AVENUE

City Manager Gipson reported that this is a public hearing to solicit input regarding the proposed rezoning of the property located at 114 Gay Avenue from C-1 Neighborhood Commercial District to R-4 Low Density Multiple Family Dwelling District. This rezoning is at the request of Manlin Development, LLC, owner, to allow the construction of two, five-unit townhome developments. This project will also require approval of a Subdivision Plat at a future date.

The townhouse project is currently comprised of 4 lots totaling 29,847 square feet in area and is located on the east side of Gay Avenue. The proposed project consists of the demolition of the existing structures and the construction of two buildings (building A, south and building B, north) with 10 townhomes total (each building will have 5 units). The total building square footage will be 30,690.

114 Gay Avenue (lot 8) currently has a zoning designation of C-1 Neighborhood Commercial District and the remaining lots are designated as R-4 Low Density Multiple Family Dwelling District (124 {lots 9 and 10} and 134 Gay {lot 11} Avenue). 124 and 134 Gay Avenue are in the Clayton Gardens Urban Design District (UDD).

The Master Plan designates the subject property as Low Density Multi-Family on the Future Land Use Plan. The property currently has a C-1 zoning designation which allows neighborhood commercial land uses; however, the request to rezone the property to R-4 will allow low density Multi-family development.

The Master Plan is a guide and is to be used by officials in initiating or evaluating requested changes in zoning to achieve desired land uses. Staff is of the opinion that the proposed rezoning application adheres to the Master Plan by allowing low density multi-family development.

The Plan Commission considered these requests at their meeting of January 06, 2020 and voted to recommend approval.

The architectural elements and the site plan of the project were considered and approved by the Plan Commission and Architectural Review Board at their meeting of January 06, 2020.

The City received an appeal relative to the site plan approval. The appeal will be heard at the next Board of Aldermen meeting and does not directly impact tonight's request for rezoning.

Aldermen McAndrew and Buse expressed their concerns that it would be premature and inappropriate to approve the rezoning whilst the appeal was pending.

Alderman Lintz stated that he is in favor of approving the rezoning tonight. He referenced the proposed building lots and said that it would be appropriate to hear (approve) the rezoning request and deal with the appeal later adding that the appellant is not appealing the rezoning.

Alderman Boulton pointed out that the Board has approved rezoning in the past prior to hearing an appeal and noted that the rezoning request is actually "down-zoning". She inquired as to approval of the rezoning and how it will affect future development of the property.

City Manager Gipson confirmed that if the rezoning is approved for the R-4 designation than any development that would occur would have to comply with the R-4 regulations.

City Attorney O'Keefe noted that it would not preclude the Board's consideration on the rezoning to go back to C-1.

Bruce Bartlet, owner of the entity that owns 114 Gay Avenue, addressed the Board commenting that if the project is not approved, he is not in favor of approval of the rezoning.

Motion made by Alderman Winings hold the public hearing open and table Bill No. 6780, to the next meeting. Alderman Boulton seconded.

The motion passed unanimously on a voice vote.

PRESENTATION AND OVERVIEW OF THE PUD POINT SYSTEM

Susan Istenes, Director of Planning and Development provided to the Board a presentation and overview of how the PUD Point System is intended to function. (copy available in the City Clerk's office).

Other

Alderman Winings welcomed City Manager Gipson.

Alderman Boulton welcomed City Manager Gipson and provided brief reports on the following:

- Clayton Community Foundation
- NonUniformed Pension Board and Uniformed Pension Board – both are doing very well; 31% increase in S & P; real estate asset is not doing as well.

Alderman Lintz reported on the following:

- Plan Commission – Shaw Park Recreation Facility (i.e. Commons)
- Presentation on Forsyth Point
- The DeMun Park mural is moving forward – commend Patty and staff.

Alderman McAndrew reported on the following:

- Sustainability Committee
- Ward 3 Coffee

Alderman Buse reported on the following:

- Community Equity Commission – 1st meeting is scheduled March 9; City Manager Gipson has acquired a facilitator to lead the group.

Mayor Harris reported on the following:

- Met with the Girl Scouts at Glenridge Elementary.
- Clayton Chamber Legislative luncheon; the Chamber is planning to host political debates.
- Clayton Chamber Awards Banquet – great event.
- Welcome City Manager Gipson.
- Coffee with Amy and Amrit Gill, new owners of Seven Gables Inn; the Gills expressed to become more involved with the community.

City Manager Gipson expressed his appreciation as he begins his work with the Board and staff.

There being no further business the meeting adjourned at 8:00 p.m.

Mayor

ATTEST:

City Clerk



City Manager
10 N. Bemiston Avenue
Clayton, MO 63105

REQUEST FOR BOARD ACTION

TO: MAYOR HARRIS; BOARD OF ALDERMEN

FROM: DAVID GIPSON, CITY MANAGER
SUSAN M. ISTENES, AICP, DIRECTOR, PLANNING & DEV. SERVICES

DATE: FEBRUARY 25, 2020

SUBJECT: PUBLIC HEARING & ORDINANCE – REZONING FROM C-1
NEIGHBORHOOD COMMERCIAL DISTRICT TO R-4 LOW DENSITY
MULTIPLE FAMILY DWELLING DISTRICT FOR 114 GAY AVENUE

This is a public hearing to solicit input regarding the proposed rezoning of the property located at 114 Gay Avenue from C-1 Neighborhood Commercial District to R-4 Low Density Multiple Family Dwelling District. This rezoning is at the request of Manlin Development, LLC, owner, to allow the construction of two, five-unit townhome developments. This project will also require approval of a Subdivision Plat at a future date.

Project Description:

The townhouse project is currently comprised of 4 lots totaling 29,847 square feet in area and is located on the east side of Gay Avenue. The proposed project consists of the demolition of the existing structures and the construction of two buildings (building A, south and building B, north) with 10 townhomes total (each building will have 5 units). The total building square footage will be 30,690.

114 Gay Avenue (lot 8) currently has a zoning designation of C-1 Neighborhood Commercial District and the remaining lots are designated as R-4 Low Density Multiple Family Dwelling District (124 {lots 9 and 10} and 134 Gay {lot 11} Avenue). 124 and 134 Gay Avenue are in the Clayton Gardens Urban Design District (UDD).

Compliance with Master Plan:

The Master Plan designates the subject property as Low Density Multi-Family on the Future Land Use Plan. The property currently has a C-1 zoning designation which allows neighborhood commercial land uses; however, the request to rezone the property to R-4 will allow low density Multi-family development.

The Master Plan is a guide and is to be used by officials in initiating or evaluating requested changes in zoning to achieve desired land uses. Staff is of the opinion that the proposed rezoning application adheres to the Master Plan by allowing low density multi-family development.

Plan Commission Consideration

The Plan Commission considered these requests at their meeting of January 06, 2020 and voted to recommend approval.

The architectural elements and the site plan of the project were considered and approved by the Plan Commission and Architectural Review Board at their meeting of January 06, 2020.

Recommendation: To approve the attached rezoning ordinance.

BILL NO. 6780

ORDINANCE NO.

AN ORDINANCE PROVIDING FOR THE REZONING OF CERTAIN PROPERTY LOCATED AT 114 GAY AVENUE FROM C-1 NEIGHBORHOOD COMMERCIAL DISTRICT TO R-4 LOW DENSITY MULTIPLE FAMILY DWELLING DISTRICT; PROVIDING FOR THE CHANGE IN THE ZONING MAP OF THE CITY OF CLAYTON, MISSOURI; AND OTHER ACTIONS RELATED THERETO

WHEREAS, on September 9, 2019 a request for the rezoning of property known as 114 Gay Avenue from C-1 Neighborhood Commercial District to R-4 Low Density Multiple Family Dwelling District was received from Manlin Development, LLC; and

WHEREAS, on January 06, 2020, the Plan Commission recommended that the proposed rezoning be approved by the Board of Aldermen; and

WHEREAS, after notice required by law and ordinance, a Public Hearing was held before the Board of Aldermen of the City of Clayton on February 11, 2020, to consider the request and recommendation; and

WHEREAS, upon due consideration, this Board of Aldermen finds and determines that good planning practice, those elements of the City's comprehensive plan applicable to the area in question, and the public health, safety, morals and general welfare would be best served if the subject Property is rezoned as hereinafter.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CLAYTON, MISSOURI, AS FOLLOWS:

Section 1. The zoning classification of the property located at 114 Gay Avenue, more fully described as follows, is hereby changed from C-1 Neighborhood Commercial District to R-4 Low Density Multiple Family Dwelling District, to wit:

Lot 8, Block No. 13, in the Clayton Gardens No. 4 Subdivision
in the City of Clayton,
St. Louis County, Missouri
Missouri

Section 2. The zoning map described in Chapter 405, Section 405.060. "Zoning Map" of the Code of Ordinances of the City of Clayton is hereby revised to be consistent with the rezoning approved in Section 1 of this Ordinance.

Section 3. Implementation

The City Manager is hereby authorized and directed to take all such actions as may be necessary and proper (or to cause the same to be taken) in order to implement this Ordinance.

Section 4. Effective Date

This Ordinance shall be in full force and effect from and after the date of its passage.

Adopted this ____ day of _____ 2020.

Mayor

ATTEST:

City Clerk



City Manager
10 N. Bemiston Avenue
Clayton, MO 63105

REQUEST FOR BOARD ACTION

TO: MAYOR HARRIS; BOARD OF ALDERMEN
FROM: DAVID GIPSON, CITY MANAGER (DG)
JANET K. WATSON, DIRECTOR OF FINANCE & ADMINISTRATION
DATE: FEBRUARY 25, 2020
SUBJECT: MOTION - A LIQUOR LICENSE UPGRADE FOR TAVCO HOLDINGS I, LLC
D.B.A. THE WINE AND CHEESE PLACE AT 7435 FORSYTH BOULEVARD

TAVco Holdings I, LLC d.b.a. The Wine and Cheese Place is requesting to upgrade their current liquor license (all kinds of intoxicating liquor at retail by the package, including Sunday *and* special permit for wine, malt beverage and distilled spirit tastings) to sell all kinds of intoxicating liquor at retail by the drink, including Sundays, at 7435 Forsyth Boulevard.

This new license would allow the The Wine and Cheese Place to hold events where full pours of wine may be offered for sale. The store has a small event space (20 people max) they would like to use for private events and paid tastings and not be limited to tasting portions. Also, in the future, they would like the ability to sell glasses of wine or beer while customers shop at the store.

The applicant has chosen not to submit a petition from surrounding property owners and first floor tenants. As a result, they are aware that this application must have a super majority vote of five Board members in order to be approved. Staff has requested that a representative attend the meeting.

Recommended Action: Staff recommends passing a motion to approve the liquor license upgrade to sell all kinds of intoxicating liquor at retail by the drink, including Sundays.



City Manager
10 N. Bemiston Avenue
Clayton, MO 63105

REQUEST FOR BOARD ACTION

TO: MAYOR HARRIS; BOARD OF ALDERMEN
FROM: DAVID GIPSON, CITY MANAGER (DG)
JUNE FRAZIER, CITY CLERK
DATE: FEBRUARY 25, 2020
SUBJECT: MOTION - DISPOSE OF RECORDS PER THE MISSOURI SECRETARY OF STATE GENERAL RECORDS RETENTION SCHEDULE

As the Board is aware, it is the recommended guideline of the Secretary of State to formally approve the disposition of records at the Board of Alderman level, and to include a list which describes the record series including quantity to be disposed, the manner of destruction and destruction date.

Below is a list of records staff is proposing to dispose.

Municipal Court – Prosecuting Attorney Files

- 2017 Closed PA files for minor traffic violations
- 2018 Closed PA files for minor traffic violations

Planning Department*

- Building plans and drawings dated January 2014 through December 2014
- All permit documents for multi-family and commercial buildings no longer in existence
- Plumbing Permits –
 - Single Family Residential – All
 - Multi Family - Repair, alteration, addition
 - Commercial - Repair, alteration, addition
- Mechanical Permits –
 - Single Family Residential – All
 - Multi Family - Repair, alteration, addition
 - Commercial - Repair, alteration, addition
- Building Permits –
 - Single Family Residential – Repair, alteration, addition
 - Multi Family - Repair, alteration, addition
 - Commercial - Repair, alteration, addition

** All permits for new construction of multi-family and commercial buildings will be kept for the existence of the building per City of Clayton Policy (Missouri Records Retention Schedule requires a minimum retention of 10 years for commercial and 5 years for residential.)*

All permit applications and issued permit copies are retained in permanent files, separate from plans/drawings, and are not included in this request.

Based on the Board's past discussions, staff has reviewed the records to assure that the retention schedules set forth by the Secretary of State have been satisfied, and that these records are no longer needed by staff. We have also verified that this list does not contain any building records, or items we would consider to be of an "historical" nature.

In following the Board's request that a method of disposal be procured that assures maximum security/confidentiality of the records, the City has arranged for a company to come to City Hall and shred the records on-site. This will occur in a timely manner upon approval of the motion by the Board of Aldermen.

Recommendation: To approve a motion to dispose of the records as listed in conformance with the Missouri Secretary of State General Records Retention Schedule.



City Manager
10 N. Bemiston Avenue
Clayton, MO 63105

REQUEST FOR BOARD ACTION

TO: MAYOR HARRIS; BOARD OF ALDERMEN

FROM: DAVID GIPSON, CITY MANAGER (DG)

DATE: FEBRUARY 25, 2020

SUBJECT: ORDINANCE –APPOINTING CERTAIN BOARD OF DIRECTORS TO THE 25 NORTH CENTRAL COMMUNITY IMPROVEMENT DISTRICT (CID)

OVERVIEW:

On June 9, 2015 the City of Clayton created the 25 North Central Community Improvement District (CID) for the property located at 25 N. Central Avenue, now operating as The Ceylon. The CID imposes an additional 1% sales tax on restaurant and other retail sales. The CID uses the revenues from the sales tax and special assessment to reimburse the Developer for certain eligible redevelopment costs totaling \$1,500,000.

The CID is governed by a five-member board of directors appointed by the Mayor with the consent of the Board of Aldermen. Only registered voters residing within the CID and the authorized representatives of property owners within the CID may be appointed to the Board of Directors. In this case, the Developer is the sole property owner within the CID. The current Board of Directors of the CID is as follows:

Joe Downs	Term Expires July 8, 2021
Ryan Carlie	Term expires July 8, 2021
Kristin Flanery	Term Expires July 8, 2021
Mark Winschel	Term Expired July 8, 2019
Ryan Bumb	Term Expired July 8, 2019

The CID is requesting that Ryan Bumb be reappointed, term expires July 8, 2023 and that Nicholas Van Sciever is appointed (replacing Mark Winschel), term expires July 8, 2023.

Recommendation: To approve the attached ordinance.

BILL NO. 6781

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF CLAYTON, MISSOURI, APPROVING THE APPOINTMENT OF CERTAIN SUCCESSOR DIRECTORS TO THE BOARD OF DIRECTORS FOR THE 25 NORTH CENTRAL COMMUNITY IMPROVEMENT DISTRICT

WHEREAS, on June 9, 2015 the City of Clayton established the 25 North Central Community Improvement District (CID) (the “**District**”) pursuant to Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri, as amended (the “**Act**”); and

WHEREAS, upon creation of the District a five (5) member board of directors was appointed with varying terms; and

WHEREAS, the District has requested the appointment of certain successor directors and the Mayor has nominated the persons identified below for appointment;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CLAYTON, MISSOURI, AS FOLLOWS:

SECTION 1. Appointment of Directors. In addition to the continuing service of Joe Downs (Term Expires July 8, 2021), Ryan Carlie (Term Expires July 8, 2021), and Kristin Flanery (Term Expires July 8, 2021); the following individuals are hereby appointed to the Board of Directors of the District for the terms noted as follows:

- | | |
|----------------------|------------------------------------|
| Ryan Bumb | 4-year term, expiring July 8, 2023 |
| Nicholas Van Sciever | 4-year term, expiring July 8, 2023 |

SECTION 2. Effective Date. This ordinance shall be in full force and effect both from and after its passage by the Board of Aldermen.

Passed by the Board of Aldermen this 25th day of February 2020.

Mayor

Attest:

City Clerk



City Manager
10 N. Bemiston Avenue
Clayton, MO 63105

REQUEST FOR BOARD ACTION

TO: MAYOR MICHELLE HARRIS; BOARD OF ALDERMEN

FROM: DAVID GIPSON, CITY MANAGER
SUSAN M. ISTENES, AICP, DIRECTOR, PLANNING & DEV. SERVICES

DATE: FEBRUARY 25, 2020

SUBJECT: APPEAL OF THE PLAN COMMISSION/ARCHITECTURAL REVIEW BOARD'S DECISION TO APPROVE A SITE PLAN AND ARCHITECTURAL PLANS FOR NEW CONSTRUCTION OF A TOWHOME PROJECT AT 114, 124 AND 134 GAY AVENUE

This is a request for an appeal of the Plan Commission and the Architectural Review Board January 21, 2020, decision to approve the site plan and architectural plans for the construction of a new townhome project at 114, 124 and 134 Gay Avenue. On February 5, 2020, Susan Hamra and Colin Butterfield, who reside at 117 Crandon Drive, filed an appeal with the City of Clayton. Specifically, the appellants challenge the height of the retaining wall, placement of the retaining wall, height of the townhomes, adequacy of notice of the ARB/Plan Commission proceedings, surface water drainage and placement of air-conditioning units.

On January 21, 2020, the ARB/Plan Commission voted 6-0 to approve the site plan and architectural plans for the project, subject to staff conditions. On February 5, 2020, the City received an application and letter dated February 3, 2020, from Susan Hamra and Colin Butterfield appealing the Plan Commission/ARB's decision relating various items related to the development of the property.

Pursuant to Section 400.230 regarding appeals of ARB architectural decisions and Section 405.1090 regarding appeals of Plan Commission site plan decisions an "aggrieved party" may, within fifteen (15) days of the decision for which redress is sought, file with the Board of Aldermen a written request for reconsideration and appeal of any decision of the ARB/Plan Commission architectural and site plan decisions.

The written request must set forth in a concise manner the decision being appealed, and all grounds known to the appellant as to wherein and why the decision is allegedly in error.

The Board of Aldermen may consider the appeal on the record of the prior decision by the Architectural Review Board and Plan Commission or may, at its sole discretion, receive additional evidence in such manner as it deems appropriate in light of the circumstances associated with the application for appeal.

The items addressed in appellants' statement of appeal are as follows:

1. **Applicant's claim:** "The installation of a 'retaining wall' within 8 feet of the west property line of the Crandon Drive properties has been approved. Exhibit F is a copy of the 'right side elevation' that used to appear in the Project Materials but has now been removed. The rear side elevations show that the east wall of the project is the 'retaining wall.' This is in violation of the setback requirements discussed in paragraph 2."

Staff response: See response to number 2, below.

2. **Applicant's claim:** The Ten Foot "Retaining Wall" is a solid concrete structure and should meet setback requirements.

Staff response: A fence or a retaining wall is not considered a "structure" by the zoning code. But, if the retaining wall was considered a structure, then the location and height, as approved, in fact meet the setbacks and height requirements of the R-4 district. The minimum setback requirement for accessory structures in the R-4 district is 5 feet and the wall, as approved, is set back 8 feet; the maximum allowable height of an accessory structure is 20 feet, and the wall, as approved is 10 feet.

3. **Applicant's claim:** Inadequate notice was given of issues to be discussed and an incorrect rear elevation was posted on the city's website prior to the ARB/Plan Commission meeting. The appellants assert the elevation shown on the website "shows a 'normal looking' townhouse project, the ground floor of which is at actual, natural ground level." The rear elevation of the project presented at the ARB meeting was not posted on the City's website, and, therefore, appellants assert, the posting of the "wrong" elevation on the website was "misleading and did not notify homeowners of the true nature of the project."

Staff response: The project materials supplied by the applicant upon filing an application for site plan and architectural plan approval were adequate to meet the code requirements for architectural review by staff and the ARB/Commission. Furthermore, the elevation posted online did not provide any numerical data on the height of the ground or the height of the proposed buildings, therefore it was impossible to determine the height of the ground or the buildings from that specific elevation. That information was available from other online documents associated with the project such as sheets A2.3, A2.3A and A2.4 of the Architectural Plans, dated December 31, 2019 and available to the appellants. At the January 21 meeting, the applicant chose to present a different, more enhanced rear elevation. Those enhancements included the addition of color, landscaping and the retaining wall and were for illustrative purposes only. The City can't control what the applicant chooses to bring to a Commission meeting and cannot verify its accuracy at the meeting. Moreover, the appellants attended the Plan Commission/ARB meeting and had an opportunity to see the exhibits displayed there and to be heard by the Commission/ARB as to the circumstances described by the exhibits in question. Accordingly, it would not appear that the appellants were prejudiced or could have been aggrieved by the change of exhibits.

4. **Applicant's claim:** "No privacy for Crandon residents. The rear 10 foot retaining wall, topped with a 4-foot fence is less than 10 feet from the lot line. A 6-foot-tall individual in the condo 'back yard' will essentially be 8 feet above our privacy fence, rendering the 'privacy' portion moot."

Staff response: The proposed townhouse structures meet the maximum allowable height regulations in the R-4 zoning district.

5. **Applicant's claim:** "The massing of the buildings. Total height is listed at approximately 43 feet, which is probably 20 feet taller than the current buildings and does not take into account

that the ground will be built up. ... it is quite a bit out of proportion with the single-family houses behind the development, on Crandon.”

Staff response: The maximum allowable height in the R-4 zoning district, is 3 stories or 45 feet, above grade, whichever is less. The maximum allowable height in the R-2 District and of the Crandon homes is 2 stories or 30 feet above grade, whichever is less. There is a 15-foot height difference between the two districts, therefore, by code, the townhome buildings can be higher than neighboring single-family dwellings.

6. **Applicant’s claim:** Drainage problems. The applicant claims there are drainage problems in the areas that should be carefully considered.

Staff response: The site plan was reviewed for compliance with the City’s code related to stormwater drainage. It was determined that the Plan meet the City’s requirements for stormwater management. An assertion that city staff needs to “look at this carefully” does not state wherein and why the ARB/Plan Commission decision was in error or that the appellants are aggrieved by that decision.

7. **Applicant’s claim:** “Air conditioning units. We did not hear discussion as to the placement or efficiency of air conditioning units.”

Staff response: The commission questioned the location of the air conditioning units at the meeting and the applicant explained their location and screening. Additionally, the staff report noted that the site plan shows the HVAC units located along the east side or rear side of the townhomes with screening provided by landscaping comprised of evergreens.

Staff Analysis – The ability to file an appeal

To file an appeal, an appellant must be an “aggrieved party” as that term is defined in the “Definitions” section of the City’s Land Use regulations. Per Section 405.390 of the Clayton City Code an “aggrieved party” is defined as either:

1. The applicant, **or**
2. One who:
 - a. Suffers a demonstrable and material adverse effect from the decision at issue, **and**
 - b. Is the owner or occupant of property within two hundred (200) feet of the subject property as measured from all boundaries of the subject property.

Appellants reside within two hundred feet of the boundaries of the subject property. However, review of the appeal documents shows that, with respect to the other requirement (2a - suffering a demonstrable and material adverse effect from the decision at issue), the appeal application does not include information or documentation that indicates the that the appellants will suffer demonstrable and material adverse effects from the decisions at issue.

The Board may wish to consider whether the materials filed by appellants have demonstrated that they are aggrieved parties within the meaning of Sections 405.390 and 405.930 of the Clayton City Code.

STAFF RECOMMENDATION: The Board should consider the application for appeal and all the backup documents and hear such interested parties as the Board may believe appropriate. The Board may then vote to approve, modify or disapprove the architectural and site applications at issue.

ABA20-000001

**Request for Reconsideration and Notice of Appeal
From ARB/Plan Commission of January 21, 2020
Regarding 114, 124 and 134 Gay Avenue**

RECEIVED

FEB 05 2020

CITY OF CLAYTON
PLANNING & DEVELOPMENT

Filed By: Susan Hamra and Colin Butterfield
117 Crandon Drive

Statement of Appeal: Susan Hamra and Colin Butterfield, owners and residents of 117 Crandon, immediately to the east of 114 Gay Avenue, appeal the decisions of the ARB/Plan Commission approving the Site Plan and Architectural Review for the new town homes at 114, 124 and 134 Gay Drive. Appellants do not appeal the rezoning decision.

Grounds for Appeal:

1. Retaining Wall Is Actually the East Wall of Project as Shown on "Right Side Elevation" Previously Posted in Project Materials.

The installation of a "retaining wall" within 8 feet of the west property line of the Crandon Drive properties has been approved. Exhibit F is a copy of the "Right Side Elevation" that used to appear in the Project Materials but has now been removed. The Rear Side Elevation shows that the east wall of the project is the "retaining wall." This is in violation of the set back requirements discussed in paragraph 2.

2. Ten Foot "Retaining Wall" Is A Solid Concrete Structure and Should Meet Setback Requirements.

In the event Paragraph 1 is deemed inapplicable,

Section 405.2210A.2, Exhibits C and D attached, requires a rear yard setback of 30 feet. It was announced at the meeting that all set back requirements were met but no examination of the facts supporting that statement occurred.

What has been referred to as just a "retaining wall" is a concrete wall with stone veneer attached which exceeds the height limitation for a solid fence and is akin to a wall of a building. Please see picture of material in Exhibit E. It certainly defies the spirit of the ordinances that a stone "retaining wall" can exceed fence limitations and approximate height of some one story buildings yet not follow setback requirements.

This ten (10) foot high wall will be less than 10 feet from our west property line. The setback requirement is undoubtedly designed to afford green space between houses and light to each yard creating an open neighborhood environment. The placement of the massive wall does not afford that and is in violation of the setback requirement.

The only reason the “retaining wall” is necessary is because the developers have built up the earth. They could dig deeper and there would be no need for this.

Please note that the plantings on the attached Exhibit B are inaccurately placed and some extend past the ten (10) foot line. Further, it is unknown whether the plantings will thrive or be kept up and as planned, we will be looking at a grey stone wall just a few feet from my property which may or may not be partially covered by plantings.

3. Inadequate Notice Was Given of Issues to be Discussed - Incorrect Rear Elevation on Website.

The Project Materials posted on the website for the meeting showed an inaccurate rear elevation. See Exhibit A attached which was posted on the website before the meeting. The Exhibit shows a “normal looking” townhouse project, the ground floor of which is at actual, natural ground level.

Please see Exhibit B, attached. This Exhibit was presented at the ARB meeting. It shows the ground floor beginning on ground which has been built up by at least ten (10) feet according to the developer at the meeting. This will cause the average roof line to be at least 52 feet up from the natural ground level thereby towering over our home.

The posting of the wrong elevation was misleading and did not notify homeowners of the true nature of the project. Crandon Drive residents deserve a hearing now that the actual plans for the project have become known.

4. No Privacy for Crandon Residents.

The rear 10 foot retaining wall, topped with a 4 foot fence, is less than 10 feet from the lot line. A 6 foot individual in the condo ‘back yard’ will essentially be 8 feet above our privacy fence, rendering the ‘privacy’ portion moot.

5. The Massing of the Buildings.

Total height is listed at approximately 43 feet, which is probably 20 feet taller than the current buildings and does not take into account that the ground will be built up. This is proportional (though still taller) than the condo to the north, as well as the units across the street. But it is quite a bit out of proportion to the single family houses behind the complex, on Crandon. Add to this the fact that the land slopes downward rapidly to the east and the proposed condos are no more than 20 feet from the east lot line. This is going to have a very ‘looming’ feel to it.

6. Drainage Problems.

The drainage situation was seemingly addressed with some care. Reduction in impervious surface, combined with the proposed berm, should hopefully address the issue. However, I'm not certain that you are aware of how much of a problem the drainage is here. I have pointed out the problem to the city of Clayton in the past with minimal results. Heavy rains result in small streams forming in the southwest portion of 117 Crandon from runoff to the east and north. This also drains into 111 Crandon. An engineer from the city needs to look at this carefully.

7. Air Conditioning Units.

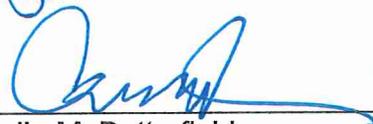
We did not hear discussion as to the placement or efficiency of air conditioning units. This information is critical, considering that there will be a total of 10 (or 20) units which could cause significant noise pollution to Crandon Drive residents.

We request that the approval of the site plan and architectural review of the townhomes project at 114, 124 and 134 Gay Avenue be reversed.

Respectfully submitted,

 2.3.2020

Susan E. Hamra

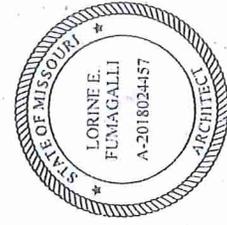
 2.3.2020

Colin M. Butterfield

314-422-4527 cell (Hamra)
636-530-1600 office (Hamra)
shamra56@aatt.net

Exhibit A

Exhibit A



REAR ELEVATION

1/8" = 1'-0"
CLAYTON T.H.
MANLIN
9-5-19/9.6.19

L. E. FUNAGALLI, INC.
architectural innovations

Exhibit B

Received
01/21/2020 @ PC.MTG



Exhibit B

City of Clayton Zoning Requirements Cheat Sheet

Zoning District	Minimum Lot Width ¹	Minimum Lot Area ¹			Setbacks ² (see page 2 for permitted encroachments)				Maximum Impervious Coverage ⁶		Maximum Floor Area Ratio ⁸	Maximum
		All uses	Two-Family	Multi-Family	Front	Side	Rear	Front Yard	Total Lot	Stories or 4		
R-1	80 ft.	20,000 sq. ft.	NA	NA	Average on the block face ³	10% of lot width; 12 ft. minimum/25 ft. maximum	25% of lot depth; 40 ft. minimum/70 ft. maximum	45%	55%	NA	2 stories or 4	
R-2	60 ft.	7,500 sq. ft.	NA	NA	" "	10% of lot width; 5 ft. minimum/15 ft. maximum	25% of lot depth; 30 ft. minimum/50 ft. maximum	" "	" "	NA	2 stories or 3	
R-3	50 ft.	5,000 sq. ft.	2,500 sq. ft. (per unit)	NA	" "	10% of lot width; 6 ft. minimum/15 ft. maximum ¹⁵	30% of lot depth; 30 ft. minimum/50 ft. maximum ¹⁶	" "	" "	NA	2 stories or 3	
R-4	" "	" "	" "	1,750 sq. ft. (per unit)	" "	10% of lot width; 5 ft. minimum/15 ft. maximum ¹⁵	20% of lot depth; 30 ft. minimum/50 ft. maximum	" "	" "	NA	3 stories or 4	
R-5	" "	" "	" "	1,500 sq. ft. (per unit)	" "	10% of lot width; 8 ft. minimum/20 ft. maximum ¹⁵	" "	" "	" "	NA	" "	
R-6	" "	" "	" "	1,000 sq. ft. (per unit)	" "	10% of lot width; 12 ft. minimum/20 ft. maximum ¹⁵	" "	" "	" "	NA	" "	
R-7	" "	" "	" "	750 sq. ft. (per unit)	" "	" " ¹⁵	25% of lot depth; 30 ft. minimum/50 ft. maximum	" "	" "	4 ⁹	Noi	
C-1	NA	NA	NA	NA	Average of existing structures on the street frontage	None ⁴	25 ft. minimum ⁵	NA	NA	NA	3 stories or 3!	
C-2	NA	NA	NA	NA	" "	" "	10% lot depth or 10 ft. (greater)	NA	NA	1.5	7 stories or 9!	
HDC	NA	NA	NA	NA	10 ft. minimum	None	None	NA	NA	3	No	
S-1	NA	NA	NA	NA	" "	" "	" "	NA	NA	NA ¹⁰	4 stories: maxin	

NOTES:

- Where a lot of record established prior to April 14, 1959 has less width or area than herein required in the district in which it is located, such lot shall be considered a conforming lot.
- The required minimum horizontal distance between the building line and the related front, side and rear property lines.
- If 50% or more of the homes along any block face have a front yard setback with a variation in depth of 10 feet or less, the average of these setbacks on the block face shall be the minimum setback. For example, if a block face and the remaining home is set back 40 feet, the home with the 40 foot setback is not included in the calculation for the average. If 50% or more of the homes on the block face have a front yard setback with a variation the block face) the required front yard setback is 25% of the depth of the lot (minimum 30 feet, maximum 60 feet for R-2 through R-7; minimum 40 feet, maximum 100 feet for R-1).
- Where a side lot line abuts a residential dwelling district, a minimum 5 foot side yard setback shall be provided.
- Where a rear property line abuts an alley, half of the width of the alley may be considered part of the required rear yard setback.
- Any surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water is considered impervious. It includes, but is not limited to, surfaces such as compacted sand, limo stairways, walkways, decks and patios at grade level and other similar structures. For the purposes of calculating impervious coverage, pools and other water features shall only count at 50% of the actual water area. The allowable impervious coverage.
- Buildings in the R-7 District which exceed three stories in height may only cover up to 60% of the buildable area of the lot on which they are to be constructed.
- The total floor area of all structure improvements on a lot, divided by the area of the lot.
- Where a portion of the buildable area is devoted to open space, additional floor area equal to eight times the open space contained within the buildable area shall be permitted.
- Buildings in which the use conforms to the use regulations of the HDC District may be constructed to the height and area of regulations of the HDC District.
- The vertical distance from grade to highest point of the coping of a flat roof, the deck line of a mansard roof, or the mean height level between the eaves and ridge of a gable, hip or gambrel roof. For new construction, the maximum height through the planned unit development or special development district procedures, a 15 foot stepback (upper story building setback) shall be provided beginning at 1
- For buildings permitted to exceed the maximum height through the planned unit development or special development district procedures, a 15 foot stepback (upper story building setback) shall be provided beginning at 1

Where a lot of record established prior to April 14, 1959, has less width or area than herein required in the district in which it is located, such lot shall be considered a conforming lot.

Section 405.2200 Impervious Coverage

[Ord. No. 5814 §1(17.7), 4-27-2004; Ord. No. 5935 §1(17.7), 7-11-2006]

- A. No more than forty-five percent (45%) of the required front yard setback may be covered by impervious material. No more than fifty-five percent (55%) of the total lot may be covered by impervious material. Properties located within an urban design district must comply with the requirements for the specific urban design district.
- B. In instances where an applicant can demonstrate just cause, the Plan Commission shall have the authority to approve a modification of up to an additional five percent (5%) over the impervious coverage requirement; that is up to fifty percent (50%) in the front yard and up to sixty percent (60%) overall lot coverage; unless the property is located within an urban design district, then the requirements found therein shall apply.

Section 405.2210 Setback Requirements

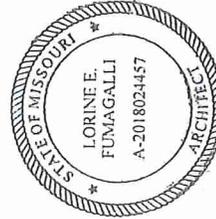
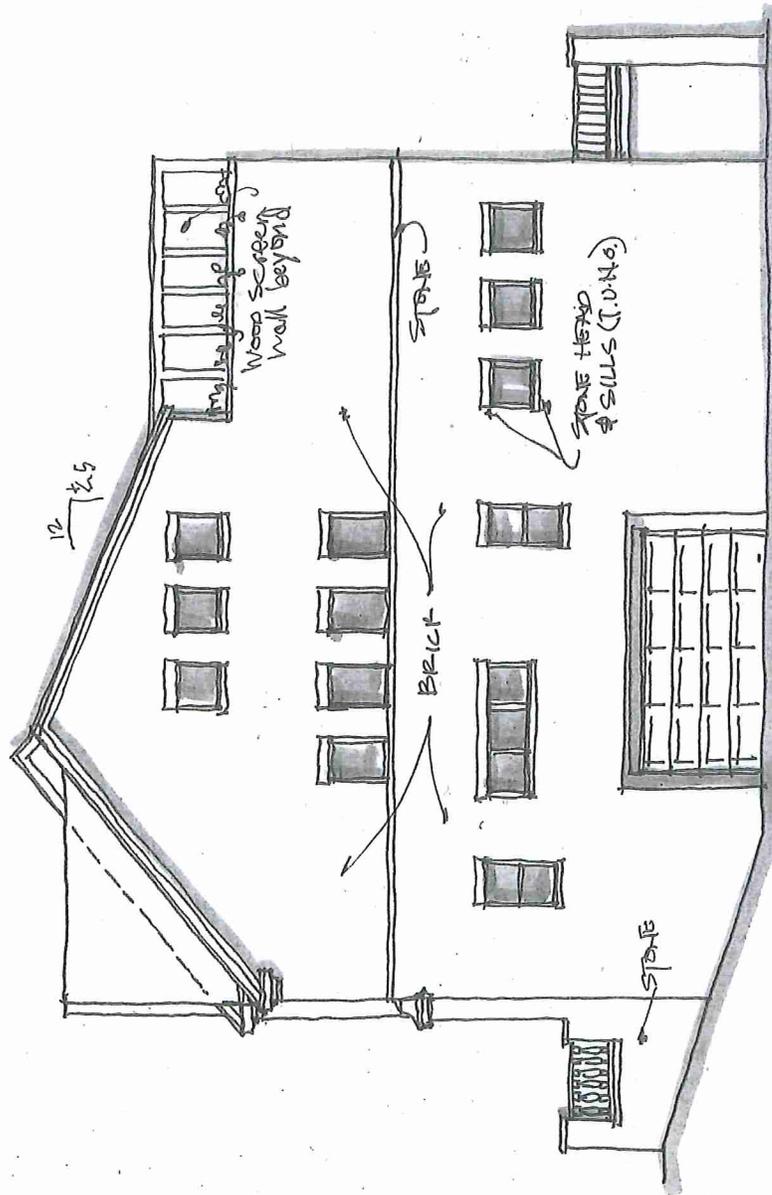
[Ord. No. 5814 §1(17.8), 4-27-2004; Ord. No. 5935 §1(17.8), 7-11-2006]

- A. The following are setback requirements for a principal building located in an "R-4" District and modifications to those requirements when certain conditions exist.
 1. *Front yard setbacks.* The required setback in an "R-4" District is measured by calculating twenty percent (20%) of the depth of the lot measured from the front to the rear property line. The calculated setback must be a minimum of thirty (30) feet from the front building facade to the front property line. The front yard setback is not required to exceed a maximum of sixty (60) feet, although these regulations do not preclude a deeper than maximum setback at the discretion of the property owner. Modifications to the required front yard setback are permitted under the following conditions:
 - a. Where fifty percent (50%) or more of the frontage along any block face is improved with buildings that have observed a front yard line with a variation in depth of not more than ten (10) feet, the average of such front yard lines shall be the minimum setback observed in such a block face in lieu of the required front yard setback requirements. For example, when calculating the average setback for a block face with ten (10) homes, where nine (9) homes have setbacks ranging from twenty-five (25) feet to thirty-five (35) feet and the remaining home has a forty (40) foot setback, the home with the forty (40) foot setback is not included in the calculation for the average. No front yard shall be required to exceed the maximum of one hundred (100) feet.
 - b. Where lots have double frontages or are corner lots, the required front yard setback provision shall be provided on all streets.
 - c. If at or below the first (1st) floor level of the principal structure, an open, uncovered porch may project into the required front yard setback a distance of up to ten (10) feet or an open, covered porch or paved terrace may project into a required front yard a distance of up to five (5) feet and associated roof eaves may project up to an additional three (3) feet.
 - d. Balconies may project up to five (5) feet into the required front yard setback.
 - e. Front yard masonry garden walls, planting boxes, retaining walls, plantings or ornamental or decorative fences may be erected as part of new construction, up to four (4) feet above the grade level in the front yard, provided such structure is an integral part of the architectural feature of the principal structure, is in compliance with sight distance standards and is approved by the Architectural Review Board. Additionally, for properties located on a corner lot, no such plantings, masonry garden walls, planting boxes, retaining walls or ornamental or decorative fences shall be maintained higher than three and one-half (3½) feet above the established street grades within twenty (20) feet of any street intersection to comply with sight distance standards.
 - f. Roof eaves may project up to three (3) feet into the required front yard setback.

Exhibit E

Exhibit E





RIGHT SIDE ELEVATION (LEFT SIDE SIMILAR)

1/8" = 1'-0"

CLAYTON T.H. MANLIN

9-5-19/9-6-19

L. E. FUMAGALLI, inc. architectural innovations