

Minutes
City of Clayton Planning Commission
Regular Meeting
Tuesday, November 28, 2023

1. CALL TO ORDER

Chair Richard Enea called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE

Chair Enea led the Pledge of Allegiance.

3. ROLL CALL

Present: Chair Richard Enea
 Vice Chair Maria Shulman
 Commissioner Joseph Banchemo
 Commissioner Bretten Casagrande
 Commissioner Daniel Richardson

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

4. ACCEPTANCE OF THE AGENDA

There were no changes to the agenda as submitted.

5. PUBLIC COMMENT

Clayton resident Bruce Campbell said he saw posts on Facebook about housing rezonings. Commissioner Richardson advised that that was an agenda item and that the speaker could address that matter later in the meeting. Mr. Campbell then said that he heard the Oktoberfest event was canceled. Chair Enea said that was not a City event, but he also noted that he was a member of the Clayton Business and Community Association (CBCA) that sponsored the event, and the CBCA had no plans to cancel it.

6. CONSENT CALENDAR

A. Minutes of Planning Commission Regular Meeting of November 14, 2023.

There being no member of the public attending in person or virtually who wished to comment on the Consent Calendar, Chair Enea invited a motion. Commissioner Casagrande moved to adopt the Consent Calendar with Meeting Minutes of the November 14, 2023 meeting, as submitted. Vice Chair Shulman seconded the motion. The motion passed by vote of 5 to 0.

7. PUBLIC HEARING

A. Recommendation on Amendments to Clayton Municipal Code Title 17 to Implement Adopted General Plan Housing Element Policy, Rezone Properties in Conformance with the Housing and Land Use Elements, Clarify Administrative Procedures, and Align with State Law.

This is a continued public hearing to consider proposed amendments to various chapters of Title 17 (Zoning) of the Clayton Municipal Code (CMC), to: 1) implement adopted Housing Element policies and amended Land Use Element policies and land use designations; 2) clarify administrative procedures; and 3) align with provisions of certain California statutes governing land use. Amended text is proposed in multiple chapters of CMC Title 17. In addition to amendments to text of the Zoning Ordinance, eight sites (or portions thereof) in the City are proposed to be rezoned to accommodate residential land uses.

Chair Enea acknowledged that this was the second meeting scheduled on this item. He then invited Community Development Director Dana Ayers to present the item. Director Ayers shared a slide deck summarizing the proposed Zoning Code amendments described in the current and previous meetings' staff reports. She noted that changes between the two meeting drafts were identified using track changes in the current meeting's staff report attachment. Director Ayers concluded by stating that staff recommended the Commission resume the public hearing and accept additional written and spoken testimony, close the public hearing, and adopt the resolution attached to the staff report recommending City Council adoption of the Municipal Code text and zoning map amendments as listed in Exhibits A and B to that resolution.

Chair Enea reiterated that the action at tonight's meeting was to enact policies already adopted by the City Council. He then resumed the public hearing on the item.

Bruce Campbell asked if the owners of the Eagle Peak and Easley Estates properties had agreed to the rezonings of their properties. Chair Enea advised that they had. Chair Enea further explained that the rezoning gave those owners the option to develop their lands for residential purposes. Mr. Campbell said he was afraid Clayton was going to have apartments with low-income housing on the sites.

A member of the audience attending the meeting in person asked if the amendments were recommendations from staff, or if they were intended to do what the State required, or if they were trying to do more. He suggested doing the minimum required by the State and nothing further. He said he was on the Planning Commission when properties were rezoned and said that housing was not being built in Clayton because it costs too much. He suggested that establishing minimum densities to facilitate apartment construction might satisfy the State but might prevent development from happening if a builder wanted to build single-family houses. He further suggested upzoning the Clayton Station shopping center to 1,000 units per acre but suggested against minimum densities because apartments were too costly to build and interest rates were increasing.

Lauren Kindorff said that the law is the law and there for a reason, and people can agree or disagree with it. She asked that decision-makers look at the law and understand the law's requirements. Anyone who does not personally like the law can discuss their disagreements at the State level. She felt that people used Clayton as fodder for making personal statements about individual wants. She recognized that decision-makers represent the community but also said that people must consider the law first and not create contention and problems by trying to get around it to advance personal opinions. She hoped that people would not make Clayton fodder to push an agenda that will get the City into trouble.

There being no other member of the public attending in person or virtually who wished to comment on the item, Chair Enea closed the public hearing.

Commissioner Richardson said that he has been a Clayton resident for 35 years and a Planning Commissioner for 10 years. He recalled that, for many years, the State has decided local agencies' allocations of the regional housing need. Cities would then take that number and write their housing plans but, subsequently, nothing would get built. Consequently, the State took stronger action to compel cities to accommodate their assigned units by removing impediments and barriers to housing construction, and with threats of financial penalties and local agency loss of design or land use control. Commissioner Richardson hoped that Clayton could avoid those penalties. He acknowledged that State legislative leaders were supportive of housing construction. He stated that Clayton had done rezonings following the last housing element update. As before, but under a more onerous housing planning process, Clayton now needed to show progress and to follow through with implementing the commitments in the adopted Housing Element. Commissioner Richardson supported moving the item forward to the City Council with the Planning Commission's support. He said that it made sense to him to include the few clean-up items that staff also recommended be done with this process.

Commissioner Banchero questioned the recommendation for minimum densities and suggested that minimum densities might be a disincentive for a developer who wanted to build at a density below the minimum. Director Ayers advised that the City Council had discussed establishing minimum densities during their meeting in January 2023, as a means to ensure that the development assumptions for each site in the City's housing site inventory could be realized. That comments from the Council were formalized in a new General Plan Land Use Element policy that supported establishment of minimum densities. Director Ayers further advised that a developer could request to build below the minimum specified density for a site, but in that scenario, the City would need to reevaluate its housing site inventory to ensure that its allocation of housing could still be achieved on the remaining sites. Director Ayers further advised that the Housing Element was not created in a vacuum, and that, in the process of writing the Housing Element, she had met with each of the owners of the sites that were proposed to be rezoned. For the sites currently proposed to be rezoned, the owners expressed support for the rezonings. In one instance, an owner did not want to see density increased on their property, so that site was removed from the list of recommended amendments. For another site, staff currently had a pending development application that conformed with the recommended rezoning.

In response to Commissioner Casagrande, Director Ayers advised that Sites B and Q in the Housing Element inventory had pending development applications. Of the two sites, only Site Q needed to be rezoned to accommodate its proposed development project.

Vice Chair Shulman reiterated the question and concern she expressed at the November 14 meeting about removal of the guest parking requirement for multifamily housing. Director Ayers said that the City's engineering subconsultant had provided the data from the Institute of Transportation Engineers' *Parking Generation Manual*, which indicated an observed vehicle parking demand of 1.3 stalls average per unit in a multifamily development. Director Ayers acknowledged that fewer parking stalls could create an inconvenience for people who would have to traverse a longer distance between their cars and their destinations; however, excessive and potentially infrequently used asphalt-paved parking stalls also have negative environmental impacts in the form of intensified urban heat islands, increased stormwater runoff and poorer water quality, and less area available for heat-mitigating and water quality restorative landscaping. Director Ayers added that the recommended amendment to remove guest parking requirements from the Zoning Code was based on specific language in adopted Housing Element policy.

Vice Chair Shulman asked if the recommendation to eliminate guest parking gave consideration to fair housing obligations or accessibility requirements for persons with disabilities. Director Ayers advised that Title 24 Accessibility requirements mandate accessible parking stalls based on ratios of accessible stalls to standard stalls as specified in Building Code. Removal of guest parking requirements from the City's Zoning Code did not waive a developer's obligation to provide accessible parking stalls in accordance with Title 24 Accessibility standards. Director Ayers reiterated that staff's recommendation was to reduce the minimum off-street parking stall requirements in the Zoning Code, and that a housing developer could elect to provide more parking stalls than the minimum required. Vice Chair Shulman stated that she still believed elimination of guest parking was a mistake, and that the increased runoff or heat from additional guest stalls was not going to make a difference. She re-iterated her concern for herself and others with mobility issues who might have to wait for parking spaces or cross long distances to get to residences where driveways were shared and on-street parking was unavailable.

Chair Enea said that development proposals come before the Planning Commission for approval, and the Commission could consider the parking proposed with the development. Director Ayers added that the Commission could ask but could not require, as a condition of permit approval, that a developer provide more than the minimum number of parking stalls required by the Zoning Code. She re-iterated that the recommendation was to require 1, 1.5 or 2 stalls per multifamily unit, depending on bedroom count, and that some units might be overparked for the number of occupants. She re-stated that developers could choose to provide more than the minimum number of stalls required. She reminded the Commission of the Site Plan Review Permit amendment considered by the Commission at their November 1, 2023 special meeting, stating that the applicant for that project chose to provide off-street parking when none was required because providing off-street parking made his units more marketable.

Chair Enea said that, in his neighborhood, off-street parking was limited and people sometimes had to park a good distance from their destination. Speaking to concerns expressed earlier about low unit counts making sites unbuildable, Chair Enea referenced Site Q on the corner of Clayton Road and Peacock Creek Drive. He stated that the owner of that property said that it was difficult to market the property with 30 townhouse units, and the developer of that site was looking for a means to increase the number of units to 60 to make the project more economically viable. Chair Enea said that housing that gets built in Clayton with a certain number of units would have to have affordable units. The City could not stop affordability, and the City could be fined if it tried to get around current State laws requiring affordable housing. The laws could change, but current State legislative leaders supported housing. He saw nothing wrong with building houses of

a variety of sizes; not all units had to have 2,000 or more square feet of floor area. He was glad to see the housing allocation being met and the Zoning Code being updated.

There being no further comments from Commissioners, Chair Enea invited a motion on the item. Commissioner Richardson moved to adopt the resolution attached to the staff report, recommending City Council approval of the proposed amendments to Clayton Municipal Code Title 17 (Zoning) to implement adopted General Plan Housing Element policy, rezone properties in conformance with the Housing and Land Use Elements, clarify administrative procedures, and align with State law. Vice Chair Shulman seconded the motion. The motion passed by vote of 5 to 0.

8. COMMUNICATIONS

There were no communications from staff or Commissioners.

9. ADJOURNMENT

The meeting was adjourned at 7:50 p.m. to the next regular meeting of the Planning Commission on December 12, 2023.

Respectfully submitted:



Dana Ayers, AICP, Secretary

Approved by the Clayton Planning Commission:



Richard Enea, Chair